

May 12, 2009



TRANSCRIPT

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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Phil Andrews, President

Councilmember Roger Berliner, Vice President

Councilmember Marc Elrich

Councilmember Valerie Ervin

Councilmember Nancy Floreen

Councilmember Michael Knapp

Councilmember George Leventhal

Councilmember Duchy Trachtenberg

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1 COUNCIL PRESIDENT ANDREWS:

2 Good morning, everybody, and thank you for being patient as we pull the meeting
3 together. Welcome to a meeting of the County Council. We're glad that you're here. We
4 are in the thick of the budget right now, so if you see Councilmembers having lots of
5 sidebar conversations, that is one of the reasons why. We are working to finalize the
6 budget in the next week, and it has been a very challenging one. But we're going to begin
7 the meeting with an invocation by the Reverend Steve Robertson of the Chevy Chase
8 Presbyterian Church in Chevy Chase, and please join me in standing for the invocation.
9

10 STEVE ROBERTSON:

11 Good morning. Let us gather our hearts in prayer. "Eternal and Holy One, all people are
12 created in your image. We thank you especially for the diversity of races and cultures
13 which you have placed together in our community of Montgomery County. Help us to live
14 together in harmony and peace, learning and growing from one another into one holy
15 community of love and grace. As we gather this morning to do the work of this County, we
16 thank you for the men and women who serve at all levels of public service--in government
17 offices and judicial processes, in public works and community service, in safety and
18 emergency responses, in social services, in healthcare and healing. Teach us to
19 remember that our lives depend upon the work of many minds and hands cooperating
20 together to make our community beneficial to all. Especially this morning we ask your
21 blessings on these men and women elected to serve Montgomery County. Grant that
22 through their deliberations and decisions, our problems may be solved, the well-being of
23 the people enhanced, and that we can live together in a fair and just society. Give them
24 insight and wisdom as they are faced with difficult situations and confusing options. In
25 these troubled days of economic uncertainty, give all of us a ray of hope and a vision for
26 your future as we live into the promises which you have for us. Guide us all in being
27 economically just, socially responsible, and morally faithful. We lift our prayers to you.
28 Hear them, we pray. Amen."
29

30 COUNCIL PRESIDENT ANDREWS:

31 Thank you very much, Reverend Robertson. Appreciate it. One of the great joys serving
32 on the Council is helping to recognize outstanding achievement by County residents, and
33 we do have 3 presentations this morning that will do that. Our first will be a proclamation
34 recognition of the Springbrook boys basketball team for winning the 4A State
35 championship, and Councilmember Valerie Ervin is going to do the honors. And I would
36 like to invite the team and its coaches and representatives of Springbrook to join us here
37 at the front with Councilmember Ervin.
38

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1 COUNCILMEMBER ERVIN:

2 You just need to stay back here. Good morning, everyone. I'm really excited because this
3 is my first time being able to present a proclamation to a sports team, and it's not even in
4 my District. So I'm going to first of all acknowledge the Praisner office. While we're waiting
5 for someone to be elected to represent District 4, they have kindly asked me to make this
6 proclamation on their behalf, and I was more than happy to do it. I'm not in District 4, but I
7 am very close to it. It's just a stone's throw across the border of District 5. So I'm being
8 joined today by the Springbrook High School Blue Devils, and they are very impressive
9 indeed. They have won back-to-back State championships, and this past year their record
10 was 27-0. So--and the gentlemen behind me are all seniors. The rest of the team--I guess
11 they're back at school taking exams. And so I would like to first introduce the coaches.
12 Tom Crowell, the Head Coach. Ron Lane, the Athletic Director. Rob Harmon, Assistant
13 Coach. And the stars of the team are the seniors here--Jeremy Williams, Jamal
14 Olasewere--if I messed that up, I apologize--Kwambina Coker, Brandon Davis, and Chris
15 Carter. And so I will read the proclamation on behalf of the County Council to congratulate
16 Springbrook High School Blue Devils for their amazing accomplishments these past 2
17 years. "Whereas winning a championship one time is a journey that tests the utmost of
18 skills and emotions of a team and the qualities needed to defend a title are hard to
19 encumber. But that fortitude was demonstrated in abundance by the Springbrook High
20 School boys basketball team in its run to the 2009 Maryland 4A West Region and 4A
21 State championships. And whereas the Blue Devils, who before these back-to-back titles
22 had last won a State title in 1988, in 2008 and '09 produced one of the most memorable
23 seasons in Montgomery County boys basketball history finishing 27-0, including a 73-61
24 victory over Henry Wise High School of Prince George's County in the title game. And
25 whereas in extending their 2-year record to 52-2, including victories in their last 36 games,
26 the Blue Devils combined a multifaceted offense with a relentless defense that allowed
27 less than 45 points per game for the second straight season. And this year, they won 22 of
28 their 27 games by 12 points or more. And whereas the entire Washington metropolitan
29 area is aware of the quality of boys basketball played in Montgomery County, as Coach
30 Tom Crowell was named All-Met Coach of the Year by The Washington "Post." [applause]
31 And Montgomery County Coach of the Year by The "Gazette" Newspapers, and senior
32 forward Jamal Olasewere was named to the first-team All-Met and All-Gazette teams. And
33 whereas Coach Crowell, Assistant Coaches Kirk Davis, Rob Harmon, Tony Murray, and
34 Darnell Myers, the players, their families, and supporters deserve hearty congratulations
35 for setting their sights high and combining to help the Blue Devils finish as the number 2-
36 ranked team in the entire Washington metropolitan region. Now, therefore be it resolved
37 that the County Council of Montgomery County, Maryland, hereby proclaims
38 congratulations and salutes Springbrook High School boys basketball team. And be it
39 further resolved that the Montgomery County Council joins with the entire Springbrook
40 High School community in recognizing this wonderful achievement of bringing home



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1 another championship banner to Montgomery County. Presented on this 12th day of May
2 in the year 2009, signed by Council President Phil Andrews." And I--I would like to call the
3 coaches up to the microphone, and I hope someone here would like to make a couple of
4 comments.

5
6 **ROB HARMON:**

7 I'm Rob Harmon, and I'm a lifelong resident of Montgomery County and a graduate of
8 Springbrook High School way back when. I won't tell you what year. For the last 5 years--
9 thanks to Ron Lane here, he invited me to come out and help coach. And so I've
10 completed 5 seasons, and the last 2 have been unbelievable. I think you heard all the
11 stats--I won't necessarily repeat it all--but back-to-back State championships, first time in
12 41 years that that's been done. And it's thanks primarily to these 5 young men right here,
13 who I'm happy to say are all moving on with scholarship help to college. And I would say
14 that probably 20, 30, 40 years from now, they're going to remember their high school days
15 in Montgomery County, and a lot of other people are going to remember them. So
16 congratulations, guys.

17
18 **COUNCILMEMBER ERVIN:**

19 Thank you. I would actually like to acknowledge and ask Joy Nurmi, who was Chief of
20 Staff to both Mrs. Praisner and her husband Don Praisner. And come on up, Joy, who has
21 been part of this District for many years. And so we want her to join with us in celebration
22 and to have the photograph taken. So thank you all very much. OK. You're quite welcome.

23
24 **COUNCIL PRESIDENT ANDREWS:**

25 Congratulations again to the Springbrook boys basketball State champions. [applause]
26 Our next proclamation will be in recognition of the Tree House Child Assessment Center,
27 and Councilmember Trachtenberg is going to do the honors. I'll invite the representatives
28 from the Tree House Assessment Center and HHS, please, to join Councilmember
29 Trachtenberg up front.

30
31 **COUNCILMEMBER TRACHTENBERG:**

32 It is my distinct pleasure this morning to recognize the Tree House program here in
33 Montgomery County. May of this year has been proclaimed National Mental Health
34 Awareness Month, and I can't think of a community partner more deserving of recognition.
35 Tree House is a program that serves abused children, basically providing really significant
36 support mentoring. There are a full range of services that are available to children and to
37 their families. And as I said, I can't think of an organization more--and a program more
38 deserving of our recognition. Clearly, what the Tree House does is it provides an
39 opportunity to children. It gives them a chance to realize their potential and really have an
40 ability to find their place in the world. And it's with that that I'm going to recognize the 3



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1 folks that have joined us this morning--Brenda Peterson from Tree House, Agnes Leshner
2 from Child Protective Services, and, of course, Kate Garvey from the Children's Division of
3 HHS. I'm going to read this, and after that I'd ask if any of you--all of you, perhaps--might
4 want to make a statement.

5
6 COUNCIL PRESIDENT ANDREWS:

7 Councilmember Trachtenberg, can you speak a little closer to the microphone?

8
9 COUNCILMEMBER TRACHTENBERG:

10 OK. The County Council of Montgomery County, Maryland, "Whereas the Tree House
11 Child Assessment Center opened its doors in 2002 as a private-public partnership
12 between the Primary Care Coalition and Montgomery County, and ever since has been
13 meeting the mental health needs of children and adolescents of our community. And
14 whereas the Tree House Child Assessment Center, its Executive Director Brenda
15 Petersen, and the Tree House staff each year provides a variety of services for more than
16 1,000 Montgomery County children and families who are impacted by physical abuse,
17 sexual abuse, or neglect. And whereas the Tree House staff works closely with the
18 Montgomery County Department of Police, Child Welfare Services, the Office of the
19 County Attorney, and the State's Attorney's Office to provide an array of skilled services
20 that include medical evaluations, mental health assessments and treatment, forensic
21 interviewing, case management, and victim advocacy in a safe, child-focused, culturally-
22 competent setting to ensure comprehensive care in order to prevent future maltreatment.
23 And whereas the Tree House Child Assessment Center serves Montgomery County
24 residents and advocates for mental health issues with authority and ingenuity. Now,
25 therefore, be it resolved that the County Council of Montgomery County, Maryland, hereby
26 salutes the Tree House Child Assessment Center. And be it further resolved that the
27 Council takes this opportunity to acknowledge the efforts of the Tree House Child
28 Assessment Center during National Mental Health Awareness Month and to thank it for
29 continuing to keep all children and adolescents here in Montgomery County safe from
30 maltreatment. Presented on this 12th day of May in the year 2009 and signed by Phil
31 Andrews, the Council President." So congratulations for the incredible work that you do.

32
33 AGNES LESHNER:

34 The Tree House is part of the Montgomery County effort to protect children from child
35 maltreatment. It is a wonderful center where we provide both health--mental health and
36 child advocacy services. There is a pediatrician who specializes in child maltreatment.
37 There is a psychologist who does assessment of children and families, and several mental
38 health professionals. We are very, very fortunate to have the County support and to have
39 the Primary Care Coalition provide the support. We have a wonderful director in Brenda
40 Peterson who serves children with utmost sensitivity. And in the first three-quarters of this



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1 year, we've provided services to more than 600 new cases. So in the first three-quarters,
2 we're up to 700 families who have needed the services of this very, very valuable center.
3 One of the things that we're very proud of, in addition to being recognized in Montgomery
4 County, it is also a nationally accredited--newly nationally accredited child advocacy
5 center. And so we're recognized nationally, as well, as providing high standards. So thank
6 you very much. [applause]

7
8 COUNCIL PRESIDENT ANDREWS:

9 Thank you, everybody. Our--good day. Our final proclamation this morning will be in
10 recognition of the NIH Bicycle Commuter Club by Councilmember Trachtenberg. And I'll
11 invite whoever is here from the NIH Bicycle Commuter Club to please come to the front.
12

13 COUNCILMEMBER TRACHTENBERG:

14 And I believe we're being joined by Angela Atwood-Moore, who's the president of the NIH
15 Bicycle Club, and she's brought her bicycle helmet for display this morning. And Ellen
16 Condon is here from the Bicycle Club, as well. Mr. Cox from the Club, and--I'm not sure--
17 Mr. Hayden?

18
19 RANDY SCHOOLS:

20 No. I'm Randy Schools.
21

22 COUNCILMEMBER TRACHTENBERG:

23 Randy? Oh, Randy from the Recreation and Welfare Association. Well, thank you for
24 coming this morning. My staff had approached me on the proclamation, and as many of
25 you know, we have an avid bicycle enthusiast--Mr. Hoyer--who serves on my staff. And I've
26 been aware of the NIH Bicycle Commuter Club for some time, and I wanted to provide the
27 proclamation because they are a real resource to the commuter community. They have
28 donated recently over 150 hours of volunteer time to preserve a lot of the trail sites for
29 bicycling adjacent to the NIH campus. They are also responsible for doing a great deal of
30 outreach on cycle education, safety education to those that want to commute using
31 bicycles routinely. And, of course, the other distinction I know is that historically the Club, I
32 believe, was founded by women, and for the most part there have been a number of
33 women who have served on the board of the club, and for me, that's certainly something
34 that got my attention. In fact, when looking for a quote to provide this morning, I was really
35 tickled that there's actually a quote out there from Susan B. Anthony of all people on
36 bicycling and how important it is to women. And I thought that was rather nifty, since most
37 of the time when I quote Susan B. Anthony, it's mostly about women's rights and the need
38 for equality. So here's the Anthony quote that was found. "Let me tell you what I think of
39 bicycling. I think it has done more to emancipate women than anything else in the world. It
40 gives women a feeling of freedom and self-reliance. I stand and rejoice every time I see a



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1 woman ride by on a wheel--the picture of free, untrammelled womanhood." So with that,
2 I'm going to actually ask Ms. Moore, if you'd like to come on up and make some
3 comments before we do a official photo.

4
5 ANGELA ATWOOD-MOORE:

6 I'm very honored and happy to stand here today representing many, many members in the
7 NIH Bicycle Commuter Club. There are over 600 employees at NIH who choose to ride
8 their bikes. And I think those of you who try to drive these crowded Montgomery County
9 streets can certainly appreciate the sacrifices that they make in trying to keep their cars at
10 home and instead ride their bikes. There are over 300 members who consider themselves
11 active in our Club who participate in lots of community outreach. We do try to be a good
12 example to the community of how to ride safely, how to ride predictably, how to be a full
13 participant in the transportation network of Montgomery County. We try to help and
14 encourage people to give cycling a try. It can be intimidating to start, but we do try really
15 hard to be a resource that they can come to with questions about safety, about
16 maintenance of their bicycles, about security, and about what the rules and responsibilities
17 are of riding a bicycle. I am also grateful that Councilmember Trachtenberg commented
18 and quoted that Susan B. Anthony quote. Because one of the principle reasons we do
19 what we do in the Bicycle Commuter Club is to remind people that riding a bike is fun. And
20 I'm a new mom, and I do a lot of the work I do because I want to live in a world where my
21 daughter can ride her bike safely. Where she can use it to get from point "A" to point "B"
22 and not worry about her security. Not worry about whether she has to work especially hard
23 to stand up for her right to get from point "A" to "B" however she chooses, whether that be
24 by foot or on a bike or in a car. So we will continue to do that work, and we hope that any
25 of you that are interested in more information about how to ride a bike will certainly use us
26 as a resource. Because we're not just an NIH resource. We do want to encourage
27 anybody in the Montgomery County community who wants information about how to ride
28 to reach out to us, and we'd be more than happy to share that with you. Thank you.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Thank you all very much. Some great work on behalf of the NIH Bicycle Commuter Club.
32 All right, we're now going to move on to general business and an announcement of
33 agenda calendar changes. Ms. Lauer?

34
35 LINDA LAUER:

36 Good morning. On the consent calendar, we have one just little correction. On "A," the
37 introduction of a supplemental appropriation, make that a special appropriation. That's the
38 one for Walter Johnson High School. There is some additions for this afternoon in the
39 work session. Items 3 and 4 from yesterday-- it's the community grants items. Those will
40 be scheduled at 2:45 this afternoon. And then we have an additional item, use of Housing



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1 Initiative Funds for rental assistance. And we received 2 petitions. One was supporting the
2 Senior Free Ride On and Metrobus Program, and another opposing proposed budget cuts
3 for the Minority Health Initiatives. Thank you.

4
5 COUNCIL PRESIDENT ANDREWS:

6 Thank you, Ms. Lauer. Our next item is action on approval of minutes of April 28, 2009. Is
7 there a motion?

8
9 COUNCIL VICE PRESIDENT BERLINER:

10 Let's-- let's approve the minutes.

11
12 COUNCIL PRESIDENT ANDREWS:

13 All right, moved by Council Vice President Berliner, seconded by Councilmember Ervin.
14 All in favor of approval of minutes of April 28, 2009, please raise your hand. That is
15 unanimous. They are approved 8-0. Consent calendar is before us. Is there a motion for
16 approval?

17
18 COUNCILMEMBER ERVIN:

19 Yes.

20
21 COUNCIL PRESIDENT ANDREWS:

22 Moved by Councilmember Ervin, seconded by Councilmember Trachtenberg, I think. All
23 right, any discussion of the consent calendar? Nope. Don't see any. All right, all those in
24 favor of the consent calendar, please raise your hand. That is unanimous, and it is
25 approved 8-0. Next item is Item 3, which is action on the confirmation of the County
26 Executive's appointment of the Chief of the Department of Fire and Rescue Services,
27 Richard R. Bowers Jr. Good morning. This is a very important day for the County and one
28 that I know all of us are very happy to see, and that is that--I know I speak for all my
29 colleagues when I say that we believe that the County Executive hit a home run here. I
30 don't think it was a hard decision. I think we had such an outstanding candidate in our
31 midst who put himself forward and who served extremely well in an interim capacity over
32 the last half year or so. And I have very much enjoyed working with Chief Bowers, as have
33 all of my colleagues. He's done a fabulous job, a great job, and has dedicated 32 years
34 now to the Fire Service in all kinds of capacities. So I can't think of someone who's better
35 prepared to lead this Department than you. And you have quite a contingent here of
36 supporters from the Fire and Rescue Service who have known you over the years and
37 respect you and are very happy to see this day come. And I will ask our Chief
38 Administrative Officer, Tim Firestine, if he wants to say anything at this point about Chief
39 Bowers.

40 TIM FIRESTINE:



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1 I would just note that we're very proud of this appointment, and I look forward to working
2 with Richie to continue delivering the excellent Fire and Rescue Services of his
3 Department.

4
5 COUNCIL PRESIDENT ANDREWS:

6 All right. What I suggest we do is have the vote, and then I'll give Chief Bowers a chance
7 to say a few words. So all those in favor of the action confirming Richard R. Bowers Jr. as
8 Chief of the Department of Fire and Rescue Services, please raise your hand. That is
9 unanimous, 8-0. Congratulations. Would you like to say anything?

10
11 RICHARD BOWERS:

12 I think that was 8 1/2 votes.

13
14 COUNCIL PRESIDENT ANDREWS:

15 OK.

16
17 RICHARD BOWERS:

18 That's a first, right. Well, first of all, thank you to the County Executive, to Tim, as well as
19 the Councilmembers for the selection and the confirmation. Certainly, what I intend to do
20 is to move our Department forward. And honestly, just to really put it in a very short
21 perspective, anything less than the loss of a citizen's life or a line-of-duty death, in my
22 opinion, is something I can manage. Beyond that, those are very difficult things to certainly
23 manage. We're going to do everything we can, obviously, to prevent that. That's my job.
24 And what I will do is focus on our troops and the citizens in terms of making sure that
25 they're safe and that they're ready to respond. So that really is the perspective that I have
26 of the method in which we'll do business, and we will work together. And I certainly
27 support the combination system here in Montgomery County, career and volunteer, and
28 will continue to build those relationships and to work through the many years to come as a
29 combination system here, so, thank you for the confirmation. Thank you for the
30 confidence. And certainly--my tenure as a Fire Chief, I will, as I said, make sure the troops
31 and the citizens come first. So thank you very much.

32
33 COUNCIL PRESIDENT ANDREWS:

34 Thank you. Thank you. All right. Thank you all. Our next item will be a District Council
35 Session, action--resolution regarding the request for waiver of filing fee. Dr. Benesh
36 requests a partial waiver of filing fee for a new zoning application on a 16,552-square-foot
37 property in Germantown. It is before the Council. Is there a motion? So moved by
38 Councilmember Trachtenberg. There a second?

39
40 JEFF ZYONTZ:

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1 Mr. President, I have one partial correction to the amendment?

2
3 COUNCIL PRESIDENT ANDREWS:

4 All right. OK, fine. All right, go ahead.

5
6 JEFF ZYONTZ:

7 OK, this is the first request for a waiver of filing fees--or this is a partial request for a partial
8 waiver--in the last 12 years. It's something that the Zoning Ordinance allows but has been
9 relatively inactive. When I looked up when the Council last did this, it was in situations
10 where there were really 2 applications covering the same site and some of the work had
11 already been done on the application, so the new application didn't require additional
12 work. That was the general tenor of when the request was granted. In the present case,
13 the applicant is requesting this because of 2 reasons. Number one, there was a mistake in
14 the zoning maps not--my memo incorrectly says "Sectional Map Amendment." The
15 mistake was in the Local Map Amendment where his property was changed inadvertently.
16 He should've been zoned R200. He was zoned RT-6. He intends on requesting an
17 application for the C-T zone. And with that application, he intends to file a schematic
18 development plan that would limit the new development to the current development
19 existing on the site without the ability to expand. I did ask both the Hearing Examiner and
20 Park and Planning staff if they thought these aspects would warrant a reduction in the
21 filing fees under their opinion, and they indicated that they did not think it warranted a
22 reduction in fees. The schematic development plan would not mean that there's less work
23 to do because of it. And the error in the Map Amendment itself would be a justification if
24 the doctor was seeking the R200 zone, but not if he's seeking the C-T zone. So their
25 recommendation was not to grant this requested waiver, and I agreed with their opinions.
26 There is a resolution attached that would act on this. I do have that correction, that it was
27 the last Local Map Amendment under 2-A in the background, that I would recommend to
28 the Council.

29
30 COUNCIL PRESIDENT ANDREWS:

31 So you're recommending that the waiver request be denied in the resolution?

32
33 JEFF ZYONTZ:

34 I am.

35
36 COUNCIL PRESIDENT ANDREWS:

37 And Councilmember Trachtenberg, I believe, made a motion to that effect--to deny the
38 waiver request. Is there-- is there a second?

39
40 COUNCIL VICE PRESIDENT BERLINER:



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1 If we take no action on this item, it will die. Is that correct?

2
3 JEFF ZYONTZ:

4 Um, it's before you for action. I suspect that they would still have to meet their filing fees if
5 you took no action.

6
7 COUNCIL VICE PRESIDENT BERLINER:

8 If we took no action, if there was not a second to a motion to do anything with respect to
9 this matter, it would just die? It would have the effect of denying--

10
11 JEFF ZYONTZ:

12 If they filed, they would be expected to receive the fees.

13
14 COUNCIL PRESIDENT ANDREWS:

15 I don't see a second, so it is not approved.

16
17 JEFF ZYONTZ:

18 And not scheduled for action.

19
20 COUNCIL PRESIDENT ANDREWS:

21 That's right. OK, thank you. All right, OK. We're now going to move on to our legislative
22 session. Thank you, Mr. Zyontz. We do not have any bills for introduction that I am aware
23 of. Right? No, we don't. And then we now will move on to calls of bill for final reading, and
24 our first bill is Expedited Bill 37-08, Disability Retirement Amendments. Public Safety and
25 MFP Committee recommend approval with amendments. And we have representatives
26 here from our staff and from the Office of Human Resources. And we have a packet from
27 Mr. Drummer, who has worked on this issue over the months. And we have packets from
28 2 weeks ago, as well, that has quite a bit of information. I'll make a few opening comments
29 about this, and then I will turn to the Co-Chair of the Joint Committee that took this
30 measure up--Councilmember Trachtenberg, who chairs the MFP Committee--for
31 comments, as well. This has been an issue that has been before the County now for the
32 better part of a year. Last August, the Executive Workgroup released some
33 recommendations, and in September, the Inspector General released a report about the
34 disability retirement system. This is a system that is very important to our County, and I'm
35 very glad that we have so many of our finest here today. Because I think one of the best
36 ways to honor our police officers and to honor our other employees is to have a disability
37 retirement system that accomplishes 2 important purposes. One is to provide an
38 appropriate retirement for those employees, officers who are injured in the line of duty.
39 And the second is to have a system that includes the best practices. That is, credible and
40 defensible as a system, as a part of County government. And our goal is accomplish both



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1 of those objectives by reforming the system so it is improved. The Inspector General
2 found that in the period between July of 2004 and March of 2008, that 62% of police
3 officers who retired during that period had retired on disability. And that clearly stood out
4 as a large number that warranted attention about what was driving that. Because disability
5 retirement shouldn't be the norm. It is an important benefit, it is an important protection,
6 but those kinds of numbers really do stand out. And so what we hope to accomplish
7 through this legislation is to reform the system so that we have a system that provides
8 good review of claims, that provides fair treatment for all, that provides an appropriate
9 remedy, and that meets the public test of being a good system. And that, essentially, is
10 what we have aimed to do here. We listened to a lot of people over the last 8 months.
11 We've heard from many, many people over the last 8 months. We've heard from the
12 Executive. We've heard from the Inspector General. We've heard from our employer
13 organizations. We've heard from the public. We've heard from Managed Care Advisors,
14 which is an expert consulting firm that advises on these types of issues. And the
15 Committee met numerous times over the last 8 months to review these issues and to
16 develop a legislation that is before us. And I want to thank all of my colleagues who have
17 expressed a keen interest in this. Because we all recognize this is a very important
18 program and one that we want to have as a program that is a model program. A program
19 that achieves those goals I enunciated, and one that does not cast any doubt upon the
20 decisions that are made. It's important that we have a system that meets those tests, and I
21 think that is a way to honor the people that go through the system. So--but if you look at
22 the last 5 years in the Police Department, in 2004, 11 of 21 retirees retired on disability, 17
23 of 29 in 2005, 13 of 24 in 2006, 20 of 26 in 2007, 13 of 20 in 2008. So a large percent. So
24 I think that is a issue that needs to be viewed in a comprehensive way. I think that it will be
25 an ongoing effort to bring the system to where we all want it to be. My hope and my goal
26 from the very beginning has been to achieve as much reform as is possible at any given
27 time. I think it is important that the Council take step forwards--take steps forward to
28 improve our system, to reform our system. I really think that's what this is about. It's
29 restoring the accountability, the confidence in the system, and improving it so that it is a
30 system that reflects what has been found to work well in other places. And it reflects the
31 best practices in the fields from people who are occupational medical experts, because
32 that is a crucial part of this. I think, in the long run, as Council Trachtenberg has
33 mentioned and I'm sure she will talk about it, it is important to have a preventive part to
34 this--to work to reduce the number of workplace injuries so that we don't--so these things
35 are prevented and that we have fewer workplace injuries. And we have a strong wellness
36 program now in the Fire Service, and I think it's something that we need to see in our
37 other Departments, as well. I think that's an important part of the long-term solution. One
38 step in the bill are the process amendments that would change the way that the medical
39 panel is selected and how it operates and what the qualifications are, and requiring
40 independent medical exams and strengthening the review process for individuals who



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1 have been awarded this disability retirement. That is an important step, and I think that
2 that does move us forward. Another important step, in my view, a second step is to have a
3 2-tier disability benefit system so that the medical panel can apply what it has determined
4 and make a recommendation that reflects the level of incapacity that they have
5 determined to be the case. And I think you have to have--in order for that to be fully taken
6 advantage of in terms of the decision by the medical panel, you want to have that option.
7 You want to have that flexibility to recognize the varying levels in impairment that you
8 have in different cases. So that is a brief summary of how I see this. You know, I think that
9 there are many ways that we can best serve our employees and best serve our residents,
10 and I think that this strikes the right balance. I think that it preserves a very important
11 system, one that we want to ensure is there for our employees. But I believe the end result
12 will be a system that stands the test of scrutiny, and that is important, as well. So with that,
13 I'm going to turn to my colleague and the Chair of the Management Fiscal Policy
14 Committee--Councilmember Trachtenberg--for any opening comments she would like to
15 make.

16
17 COUNCILMEMBER TRACHTENBERG:

18 Thank you, President Andrews, and I will be brief in my remarks. As the Council President
19 indicated, this is a topic that we've been discussing within both Committees for some time.
20 I know we've been discussing it really within the full Council for some time. When the
21 issues began to surface last summer, my questions initially really were around the
22 standards that were being utilized to determine incapacity. And I zeroed in on what I
23 thought were some weaknesses around process. And I certainly recognized from the
24 workgroup that the Executive Branch--what they had done in terms of review and
25 evaluation. And given what the IG report showed, as well, that indeed there were some
26 improvements that needed to be identified around the medical review process as well as
27 the administrative panel function. Additionally, it was clear to me that there were some
28 significant concerns, legitimate ones, that were being raised around the efficiency and
29 routine use of independent medical exams. So those were the things, very quickly, I
30 identified as places where we could, no doubt, come up with some improvements. And it
31 was back at the beginning of the fall, as I've said several times publicly, that I had
32 contacted the Maryland Chapter of the American College of Occupational Medicine and
33 Environmental Health thinking that if we could get some outside assistance with best
34 practices, some research done on what other jurisdictions are doing around disability
35 retirement benefits, that that would be certainly of assistance to all of us that serve here
36 on the Council. And I want to underscore that we did indeed do that. And we've continued
37 to have dialogue with experts from both that Maryland Chapter, but, quite frankly, from the
38 national disability community, as well, and the public health community. And clearly, the
39 bill that was introduced by the Council President way back in December was crafted with
40 best practices in mind. I know over the months and the many discussions we've had in the

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1 Joint Committee work sessions we've held, a number of recommendation suggestions had
2 been raised by colleagues specific to the process. And I would recognize at this time the
3 efforts that were made by both our Council Vice President, Roger Berliner, and the HHS
4 Committee Chair, George Leventhal. Again, as I know many of you know, this has been a
5 work in progress for some time. And I would like to, again, state rather publicly that it's
6 been a collaborative effort. And what we've got today that we're working with as a final
7 recommended bill from the Committee is very much a fruit of collaboration between
8 colleagues. But questions remain, and I know one of the issues that we will be discussing
9 this morning at length, I suspect, is the utilization of a two-tier system. We know publicly
10 that that was an issue in the discussions that went on between the police union as well as
11 the Executive Branch. There was no disagreement on such a system, and I want to
12 actually talk a little bit about why I believe that that is essential to the reform that we can
13 initiate here legislatively. I believe that having a standard for independent medical exams
14 is important, but it's more meaningful if it's applied with a multi-tier, a two-tier system in
15 place. The process changes that I've outlined in a general fashion are seen as having the
16 potential in really having optimal benefit if they are utilized when one has a multi-tier
17 system of disability, a two-tier system of disability. And this point also goes to the issue
18 that was raised by the Council President around the preventative health programming and
19 the fact that that's also critical if we are really committed to reforming the system and
20 making sure that the best benefit is available to those that serve the County residents.
21 And I feel very strongly based on conversations that I've had, both publicly and sidebar,
22 with folks who have an occupational medicine training, a background. And, again, one of
23 the things we are requiring in the bill is that on the medical review panel there be several
24 individuals that have that kind of board certification. Because it is my best opinion, based
25 on the conversations that I've had, that having that expertise when determining eligibility
26 and incapacity is really critical because that is a different skill set, say, than someone
27 who's certified in internal medicine. But going back to the issue of occupational medicine,
28 wellness programming--I would hope in the future that that would be something that we
29 can address and we can bolster what is made available to those that serve. I believe that
30 different levels of disability identify different levels of incapacity. That those are really
31 critical if we are encouraging both prevention but also, quite frankly, rehabilitation, if
32 necessary. They're also, in my mind, essential if we are looking to identify job
33 opportunities when appropriate. And the two-tier system, the multi-tier system of disability
34 is really critical if we are going to go ahead and identify a meaningful, good benefit for
35 those that serve and those that depend on the benefit because of an injury and a
36 determined incapacity. So I believe the Council ultimately has the responsibility to obligate
37 funds. That we all take seriously, especially given where we are in these economic times.
38 And it is our responsibility, in my opinion, to improve a system, to improve a system that
39 clearly is broken, and I don't think there's disagreement about that. I think the long
40 conversation we've had in the months leading up to this vote today has been centered

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1 about how those changes can happen. And I believe at the end of the day, because of our
2 fiscal obligation here on the County Council, that we have to make sure that the benefit is
3 secured, it's protected, that it's the best benefit for those that serve. And that the process
4 is both equitable and efficient so that when an incapacity is determined, a full range of
5 benefits can be made available to those that have become injured in the line of service.
6 So I will close by again thanking my colleagues and thanking the Council President for his
7 steadfast support. And I have appreciated the collaborative effort that we've had in the last
8 few months on this very important issue.

9
10 COUNCIL PRESIDENT ANDREWS:

11 Thank you, Councilmember Trachtenberg. I'm going to give a very quick summary of the
12 legislation. Then I will turn to Councilmember Leventhal, who has his light on. Briefly, the
13 bill has been amended substantially since it was introduced in December. And what the
14 Committee did at its last work sessions were to incorporate an amendment that had been
15 drafted by Councilmember Leventhal that summarized the points of agreement between
16 the County Executive and the Fraternal Order of Police. And that is in the packet, today's
17 packet, in the encircled section, and that is in the bill. And then the Committee approved
18 an amendment offered by Council Vice President Berliner which adds an uncoded
19 section to require a two-tiered disability system for police officers, which includes a
20 separate service-connected disability benefit for an injury or illness that prevents the
21 employee from continuing as a police officer but does not prevent the employee from
22 engaging in other substantial gainful employment. The amendment would require the
23 Executive to negotiate the terms of an appropriate two-tiered disability system with the
24 F.O.P. no later than the collective bargaining agreement that takes effect on July 1, 2010.
25 So it leaves to collective bargaining the details, but establishes that there needs to be a
26 two-tiered disability system negotiated through the collective bargaining process that
27 would take effect July 1, 2010. And that, in short, is the bill that is before the Council for
28 consideration. I'll turn to Councilmember Leventhal. I'll just add one other thing, and that is
29 we do have a two-tier system in place already in our Fire and Rescue Service, and it
30 appears to be working well. And the Committee believes that that is a good model and the
31 most relevant other employer organization we have--most comparable employer
32 organization we have to our police in terms of daily hazards. Councilmember Leventhal?

33
34 COUNCILMEMBER LEVENTHAL:

35 Good morning, everyone. We meet today during National Police Week. I appreciated the
36 resolution this morning for the Tree House, an organization I strongly support, and the
37 resolution for the NIH Bicycling Club, which is certainly a valuable and important activity,
38 and we all are proud of the accomplishments of the Springbrook High School basketball
39 team. Had I known that no resolution was going to be offered by the Chairman of the
40 Public Safety Committee to honor National Police Week, I would have had it done myself.

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1 So what I'd like to do at this point, and I believe I speak on behalf of the Council, is to
2 thank our uniformed and plainclothes officers who put themselves in harm's way, who
3 respond to calls in the middle of the night, protect our lives and property. So I hope on
4 behalf of all of my colleagues I want to wish all of the uniformed officers who are here and
5 who are on duty throughout Montgomery County a very happy National Police Week. I
6 would just like to, first of all, highlight the points that are included in the consensus
7 amendment, which was approved by the MFP Committee last week. The consensus
8 amendment addresses all of the recommendations in Inspector General Dagley's report
9 from last September. The Office of the Inspector General found that internal controls and
10 management oversight by the Office of Human Resources are not sufficient to ensure
11 service-connected disability retirements approved for police officers in a full-duty work
12 status are protected against abuse. And they recommended--the Office of the Inspector
13 General recommended that the Chief Administrative Officer revise the policies and
14 procedures relied upon by his office, the Office of Human Resources, and their contractors
15 to approve service-connected disability retirement applications to ensure internal controls
16 and management oversight practices protect County government against abuse. The
17 Inspector General also recommended that the Chief Administrative Officer ensure that
18 specific service-connected disability retirement cases identified in that report and a sample
19 of other cases from the estimated 119 service-connected disability retirements approved
20 over the past 3 years are reexamined to determine whether the status of any permanent
21 service-connected disability retirements has changed. That was the first finding and the
22 first recommendation of the Inspector General. The consensus amendment addresses
23 those points as follows. It would reduce lump-sum retroactive disability benefits by the
24 amount of workers' compensation benefits received by the employee. It would require
25 applicants to report a claimed injury within one year of the time the applicant knew or
26 should have known that the injury was disabling. It would require applicants to file for
27 benefits within one year after separation from County service or by July 1, 2010,
28 whichever is later, and within 5 years of the accident causing the impairment, or by July 1,
29 2014, whichever is later. It would require an annual medical exam or certificate from a
30 medical doctor verifying a continuing disability for the first 5 years after retirement and
31 every 3 years after that until age 55 for a policeman. It would reduce the County's
32 payment by the amount of disability payments made by another employer for the same
33 injury. It would reduce the County's payment by the amount of outside earnings received
34 by a former employee who accepts employment as a sworn law enforcement officer with
35 another government agency. Let me highlight that last point. Because the 2 cases
36 identified by the Inspector General as potentially abusive and the 2 cases which have
37 received the most attention in the media were both Assistant Police Chiefs whose
38 disability could have been disapproved by management. They were not members of the
39 Fraternal Order of Police. The Office of Inspector General also made the following findings
40 last September. Policies and procedures used to implement the Police Department's



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1 periodic medical examination program do not effectively assess the health status and
2 functional capabilities of all police officers. The Office of Inspector General recommended
3 that the Police Chief, in consultation with the Chief Administrative Officer and the Director
4 of the Office of Human Resources, revise and implement policies and procedures that
5 ensure compliance with periodic medical examination program requirements and other
6 police standards regarding the health status and functional capabilities of all police officers
7 and other employees in the Core I medical group. The consensus amendment addresses
8 these recommendations by adding a fourth doctor to the Disability Review Panel and
9 increasing the independence of that Panel. The consensus amendment requires that all
10 board members be board certified in occupational medicine or have at least 10 years of
11 experience practicing occupational medicine. The consensus amendment requires Panel
12 decisions to be made by at least 3 doctors instead of 2, and it would require an
13 independent medical examination in each case unless the nature and severity of the injury
14 render it unnecessary. Just to be clear, the September report by the Office of Inspector
15 General probably could have been implemented by the Executive Branch. Probably
16 legislation would not have been necessary other than that legislation which would have
17 been requested by the Executive Branch. And all of these items are subject to collective
18 bargaining. Now, for the last several months following the attention received by this issue,
19 there has been a bargaining process engaged upon by employee representatives and the
20 Executive Branch. And each of these items which respond to the findings and
21 recommendations of Mr. Dagley have been incorporated in the consensus amendment.
22 The consensus amendment substantially advances the independence of the process and
23 the capability of the public to have confidence in the process. It's hard for me to put in
24 words how much I regret efforts to harm the public's confidence in our police force. I wish
25 that this dialogue had not taken place, and I sure wish it was not taking place today during
26 National Police Week, but that wasn't my decision. The scheduling of this item was not my
27 decision--to schedule it during National Police Week and to schedule it in the middle of our
28 budget deliberations. That decision was made by our presiding officer. But it's before us
29 now, and we have a consensus amendment to which the parties have agreed, which
30 addresses each of Mr. Dagley's findings and recommendations. The Council could pass
31 this consensus amendment today. We would make substantial progress on addressing an
32 issue that, I have to be honest, is not the greatest catastrophe since Pearl Harbor. I was
33 glad to hear the presiding officer mention that an average of 11 officers a year have retired
34 on disability for the past couple of decades. That information, I don't believe, has
35 appeared in The Washington "Post." The Washington "Post" has consistently cited a
36 percentage figure rather than an actual figure. An average of 11 officers a year have
37 retired on disability for the past couple of decades. I'm going to say it one more time
38 because I hope perhaps it will finally appear in the newspaper. An average of 11 officers a
39 year have retired on disability for the last couple of decades. When we say that more than
40 60% of officers retire on disability, the public gets the impression that hundreds and



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1 hundreds of officers are retiring on disability each year. That's not a fair impression.
2 Through 2008, disability retirements accounted for 1.2% of the County's sworn officers.
3 The percentage in 2008, 1%, was the lowest since 2004. Now, I do have--now, as the
4 presiding officer said, we have--this has been a work in progress. I think the Chair of the
5 MFP Committee said it's been a work in progress. And the consensus amendment
6 approved by the Committee does have an effect on other employee organizations. My
7 understanding is that the consensus amendment approved by the MFP and the Public
8 Safety Committees was agreeable to MCGEO. But we also heard from the firefighters that
9 there were some really minor and technical changes that they would like to see, and we've
10 been in conversation--thanks to Bob Drummer for all of his hard work on this issue. Bob
11 Drummer has been in touch with the Executive Branch and has been in touch with the
12 firefighters. And so at this point, I would like--I hope I can get the unanimous consent of
13 my colleagues. I'm going to distribute 3 additional amendments, and then I have to further
14 amend the amendment because we've been in dialogue in real-time here. So I'm going to
15 take one and then circulate these. These are 3 technical amendments. This is the first
16 one. Thank you, Councilmember Ervin. This is the second one, and this is the third one.
17 And I'm going to explain what they do. They really are minor and technical. I'm going to
18 just take a moment for Councilmembers to review them. Amendment number 4 simply
19 replaces the word "may" with the word "must" because in the composition of the Disability
20 Review Panel, we actually must reduce it down from the large list that the sides are
21 supposed to present. So it simply says that the certified representatives must strike 3
22 names from the list and the County must strike 3 names from the list because they must if
23 you're going to reduce the size of the Panel. So that's not a substantive change.
24 Amendment number 5. It is my understanding that this language had been cleared with
25 F.O.P., MCGEO, and the firefighters. Amendment number 5 simply reduces the amount
26 of--It does not reduce--it does not integrate the disability benefits with social security
27 disability benefits. A retiree would continue to be eligible for social security benefits. Bob
28 Drummer, correct me if I'm wrong.

29
30 ROBERT DRUMMER:

31 The Committee version of the bill had just for Group "F," which is police officers, a
32 provision that excludes--prevents a reduction of your disability benefit by any social
33 security disability benefit that you receive. This amendment would add--would extend that
34 same provision to other members of either--well, the amendment is written "just
35 represented members," and could be extended to non-represented, as well.
36



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1 COUNCILMEMBER LEVENTHAL:

2 Just to be clear, if you are on disability retirement from the County and you are eligible for
3 social security disability, you will not have your County disability retirement reduced? You
4 may receive a County disability retirement for your service-connected disability, and if
5 you're social security disability eligible, you would also get your social security benefit?

6
7 ROBERT DRUMMER:

8 Yes.

9
10 COUNCILMEMBER LEVENTHAL:

11 Yes. Now, if Councilmembers will please look at amendment 5, which was just handed to
12 you, we need to bracket out--where it says, "The benefit for a Group E, F, G, or H
13 member," please put brackets around the words, "Group E, F, G, or H," because the
14 Executive Branch has requested that this same provision that a disabled person who is
15 eligible for County disability retirements and social security disability retirements apply not
16 only to represented workers but to our entire County workforce. So the amendment that
17 I'm proposing now would be amendment 5 as distributed with a bracket around "Group E,
18 F, G, or H." So it would simply read, "The benefit for a member who received a disability
19 retirement benefit," et cetera, et cetera. OK? And then the sixth--amendment 6...is a
20 clarification that the limit on the timeframe between the date of the injury and the date by
21 which disability may be claimed applies only to Group "F," the police, because they are
22 the group that negotiated this restriction on eligibility for benefits. So I'm now moving
23 amendments 4, 5, and 6 and hope I can a second for all three. And those are now before
24 the Council.

25
26 COUNCIL PRESIDENT ANDREWS:

27 OK, all right. Is there discussion on the amendments? Councilmember Ervin, I think, was
28 next. No? OK. All right, Councilmember Floreen?

29
30 COUNCILMEMBER FLOREEN:

31 No. Nothing from me.

32
33 COUNCIL PRESIDENT ANDREWS:

34 No? OK.

35
36 COUNCIL VICE PRESIDENT BERLINER:

37 Let me just ask a clarification.

38
39 COUNCIL PRESIDENT ANDREWS:

40 Sure.



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1 COUNCIL VICE PRESIDENT BERLINER:

2 Can I get clarification that these amendments are--have been run past the Executive and
3 are acceptable to the Executive Branch? That's how it was represented and I just want to
4 make sure that--since this is in real time, as my colleague observed.

5
6 WES GIRLING:

7 Your question was, have they been run by the Executive Staff? Yes. The amendment
8 number 6 is not something that we agreed to as it's constructed.

9
10 COUNCILMEMBER LEVENTHAL:

11 I thought it was corrected to protect that. We're only applying it--amendment number 6 is
12 only applied to Group "F," and this is something that had been negotiated with Group "F."
13 We're clarifying that the language in the agreement that you reached only applies to
14 Group "F," with whom you were negotiating.

15
16 Wes Girling:

17 I hadn't seen this version of it. Then, yes, we do agree with that.

18
19 COUNCIL VICE PRESIDENT BERLINER:

20 There you go.

21
22 COUNCIL PRESIDENT ANDREWS:

23 OK. Is there any other discussion on the amendments? All right, all those in favor of the
24 amendments, please raise your hand. And that is unanimous.

25
26 COUNCILMEMBER LEVENTHAL:

27 May I reclaim my time, Mr. President?

28
29 COUNCIL PRESIDENT ANDREWS:

30 Yes. Go ahead.

31
32 COUNCILMEMBER LEVENTHAL:

33 OK, I appreciate it. At this point, I'd like to talk about the Berliner amendment. Um, why do
34 we collectively bargain? We collectively bargain because we believe that our employees
35 have a right to discuss with their employer the terms and conditions of their contracts. A
36 contract should be an agreement between 2 parties-- the employer and the employee. We
37 do not have a situation where the employer solely dictates the terms and conditions of
38 employment. A contract is an agreement between 2 parties, and the way it is arrived at is
39 by negotiations, bargaining. The 2 parties sit down together and discuss many, many,
40 many fine points having to do with hours, working conditions, grievance procedures, pay,

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1 benefits, health insurance, retirement. I have not been present--I've been here 7 years--I
2 have not been present before where the Council unilaterally decided what the outcome
3 should be in bargaining. I haven't seen that happen before. And the reason why it doesn't
4 happen is because here in Montgomery County we have a well-earned reputation for
5 excellent public service. Why are our real estate values higher than some neighboring
6 jurisdictions? 2 reasons--better schools and safer neighborhoods. Why do we have better
7 schools and safer neighborhoods? Many reasons. We have a healthy tax base--at least,
8 we did until the recent recession. We're able to afford first-class workers, and we're able to
9 treat them humanely and fairly. And that's a big part of why I'm proud to serve in
10 Montgomery County government. The night that President Barack Obama was elected, he
11 said, "We need to pay our teachers more." And I believe that, and I think that the voters
12 who voted overwhelmingly for Barack Obama in Montgomery County in November of
13 2008 believe that, too. The average police officer in Montgomery County earns \$55,000 a
14 year for a strenuous and dangerous job. Now, maybe some of my colleagues think it
15 ought to be 52,500. Maybe some of us would go as far as 57,000. But I don't resent the
16 compensation, and I don't resent the benefits that are paid to our uniformed officers who
17 protect our lives and property. I understand that The Washington "Post" might, and that's
18 where I'm going to have to take issue with The Washington "Post." So the pay and
19 benefits that have been negotiated have been arrived at through a complex process that
20 this legislative body is not well equipped to insert itself into. We don't have the expertise
21 that Mr. Adler has. We are not human relations officers. We're legislators. If you have a
22 hammer, everything looks like a nail. If you're a legislator, you hear about a problem, you
23 think you can fix it by passing a bill. But legislation is not always the answer. And I don't
24 believe that imposing a two-tier disability system through legislation is a wise approach.
25 We've heard that the firefighters have a two-tier system and it works. Yes. The firefighters
26 also have 20-year retirement. I haven't proposed 20-year retirement for our police officers.
27 We've heard that every jurisdiction around us has a two-tier system. It isn't so. We've
28 heard that the Maryland State Police have a single tier at 66 2/3. We understand that an
29 independent panel of consultants hired by the Council said that a two-tier system makes
30 sense. Maybe it does. But there is no question that this is a bargainable item. And so for
31 us to offer legislation that insists that the outcome of bargaining must be what we want is
32 not consistent with the principle of collective bargaining. And so I'm opposed to Mr.
33 Berliner's amendment. Mr. Berliner proposed this in an effort to find common ground, and
34 I'm sorry. I'm not there. I don't think--I think an effort to find common ground ought to pick
35 up at least a couple of additional votes, and I suppose we'll see whether it did or not. But
36 I'm going to now move to strike lines 490-503 of the bill which can be found on Circle 214
37 of our packet, and I hope I can get a second. And I yield the microphone.

38



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1 COUNCIL PRESIDENT ANDREWS:

2 OK, thank you, Councilmember Leventhal. Your motion has been moved and seconded
3 by Councilmember Ervin. I'm going to call on Council Vice President Berliner, since he
4 was the maker of the amendment in question.

5
6 COUNCIL VICE PRESIDENT BERLINER:

7 Thank you, Council President, and I do appreciate that there is a difference of view with
8 respect to this. I want to talk briefly to the men and women of our police force who are
9 here today and say that there isn't one of us up here today that do not have an utmost
10 respect for the work you do and are grateful for that. So I hope we can avoid a
11 conversation where this seems to pit some against the brave men and women who protect
12 us and some in favor of the brave men and women who protect us, because that's not
13 what this conversation's about. What it is about is a belief that there is a flaw in our
14 system. A fundamental flaw in our system. Not through your fault, but one that exists
15 nonetheless. One that has been highlighted by the County Executive and his Chief
16 Administrative Officer, who told us in no uncertain terms that the reason why the
17 negotiations that took place over the last 5 months fell apart was because we could not
18 reach agreement on this fundamental point--whether or not there will be a two-tier system.
19 We heard from the Inspector General in no uncertain terms that a two-tier system was
20 essential to reform. And we heard from our experts. More recently, we got a memo from
21 our County Attorney with respect to this matter as to what the role of the County Council is
22 when it comes to collective bargaining sets of issues, and I want to read one sentence
23 from that. "Neither an arbiter nor the Executive in union by agreement can set core public
24 policy." That's what this Council does. Now, we may disagree, as we obviously do, as to
25 whether or not a two-tier system represents a core public policy issue. I believe it does. I
26 believe it will not harm our men and women who serve us. It'll actually ensure that those
27 who are totally disabled get more dollars, not less. But it will acknowledge that if you are
28 not totally disabled, that perhaps you should get less. And our disability should not be an
29 alternative to the retirement system. If our retirement system does not work and is not
30 structured appropriately, then let's fix this. But let's not have a distortion in our disability
31 system because we are not dealing with retirement as we should. So from my perspective,
32 my compromise was a legitimate compromise. Because I heard Mr. Bader and others
33 argue, I thought, forcefully and effectively that say this Council is not competent to pick the
34 level of benefits that are provided. Should it be 52%? Should it be 60%? Should it be
35 someplace in between for partial? Should it be 70% for full? I don't know the answers to
36 that. I do think that is something that ought to be at the table and that you ought to work
37 through. But I don't believe we should be debating at the table at this juncture, given what
38 we have seen, as to whether or not we should have a two-tier system. That, I think, is a
39 proper legislative determination. So I have great respect for my colleagues who feel
40 otherwise with respect to this. I do believe this is a matter in which reasonable people can



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1 disagree reasonably. And I believe that the tone of this conversation such--thus far has
2 been a reasonable conversation. So I will obviously oppose my colleagues' amendment to
3 strike this, and we'll see where we go from there. But I urge my colleagues to reject the
4 amendment.

5
6 COUNCIL PRESIDENT ANDREWS:

7 Thank you, Council Vice President Berliner. Councilmember Floreen?
8

9 COUNCILMEMBER FLOREEN:

10 Thank you. Mr. Council President, I had asked that when we took this up again that we'd
11 have the Inspector General here and representatives of MCA. All their advice has been
12 relied upon the Committee, but the rest of us haven't had a chance to discuss that with
13 them. Are they here?
14

15 COUNCIL PRESIDENT ANDREWS:

16 The Inspector General could not be here this morning.
17

18 COUNCILMEMBER FLOREEN:

19 Is someone here from that group?
20

21 COUNCIL PRESIDENT ANDREWS:

22 We have--excuse me? The MCA--we have their report.
23

24 COUNCILMEMBER FLOREEN:

25 But is there anybody here from the group?
26

27 COUNCIL PRESIDENT ANDREWS:

28 Not at this moment.
29

30 COUNCILMEMBER FLOREEN:

31 Well, you know, ordinarily when we do something, at least that's new to some of the
32 Councilmembers and when there is grounds for disagreement, or at least exchange, we
33 have the people whose advice we've relied upon available for the rest of us to discuss this
34 with. So I have to express my very deep disappointment that that's not the case. The
35 Inspector General, in particular, I think is a player in all this. And I had requested that 2
36 weeks ago.
37

38 COUNCIL PRESIDENT ANDREWS:

39 And I'm sorry it was not able to be accommodated.
40



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1 COUNCILMEMBER FLOREEN:

2 I guess not. OK, well, that shows how this place is operating. Um, I have a question for
3 Mr.--well, I will say this. The one thing that I think every member of this Council has
4 agreed upon in different pieces of correspondence to the County Executive is that this is
5 an issue that we're all interested in and should be subject to negotiation. So tell me, Mr.
6 Adler, what happened to that? The issue of a tiered system of the whole package of
7 disability benefits?

8
9 JOSEPH ADLER:

10 We simply could not agree.

11
12 COUNCILMEMBER FLOREEN:

13 You couldn't agree? And why was that?

14
15 JOSEPH ADLER:

16 We had differences of opinion, and we had differences in terms of what would trigger the
17 lower tier, what would trigger the upper tier, what were some of the conditions an officer
18 would have to meet. There was some very detailed set of negotiations that simply, "A," we
19 ran out of time, and, two, we also had some fundamental differences in the approach. So
20 it's the nature of collective bargaining--

21
22 COUNCILMEMBER FLOREEN:

23 Yeah, yeah. So what you're saying is a variety of issues that were--you were unable to
24 resolve? So there were things that are in this legislation--does Mr. Berliner--well, let me
25 put this. Oh, well, that's good. Excellent. Excellent. Do we have your concurrence in Mr.
26 Berliner's recommendation?

27
28 JOSEPH ADLER:

29 We believe that this is a matter to be resolved through collective bargaining. But I do not
30 want to give an opinion on whether the legislation is appropriate. We hold to the opinion
31 that this is a matter that's appropriate for the bargaining table.

32
33 COUNCILMEMBER FLOREEN:

34 And with respect to Mr. Leventhal's legislation, you're satisfied with that?

35
36 JOSEPH ADLER:

37 Again, we don't have an M.O.U. from the F.O.P., so I don't want to represent the F.O.P.'s
38 position. The County's position is that the amendments by Councilmember Leventhal
39 mirror the conceptual--or, the agreements we had with the F.O.P. in concept. That is the
40 County's opinion.



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1 COUNCILMEMBER FLOREEN:

2 And Mr. Leventhal apparently, and the Committee. And I think it's great the Committee
3 solicited the advice of the parties on this language that Mr. Leventhal has advanced and
4 just spent some time going over with us. Correct?

5
6 JOSEPH ADLER:

7 Correct.

8
9 COUNCILMEMBER FLOREEN:

10 And so-- and everyone has had buy-in. We looked at some adjustments, some technical
11 adjustments, and everyone is satisfied with that? I think that is a great process. And I
12 guess you're satisfied with that process with respect to this language?

13
14 JOSEPH ADLER:

15 Correct.

16
17 COUNCILMEMBER FLOREEN:

18 But not with respect to Mr. Berliner's language?

19
20 JOSEPH ADLER:

21 Again, it's--we believe that's something to be done through collective bargaining. And it
22 was our intention that we would--if we didn't get agreement, we would come back at the
23 next go-around and attempt to negotiate a two-tiered system.

24
25 COUNCILMEMBER FLOREEN:

26 So that's what you intend to do?

27
28 JOSEPH ADLER:

29 Yes.

30
31 COUNCILMEMBER FLOREEN:

32 And do we know what the other elements of such a conversation would entail?

33
34 JOSEPH ADLER:

35 Well, obviously, if we would move to a two-tiered system, the party on the other side
36 would have an equal stake at either enhancing some of the benefits or opposing a two-
37 tiered system perhaps out of principle. We felt, again, that this was an appropriate way to
38 deal with some of the issues that were mentioned by the Inspector General in that folks
39 might retire who are not 100% disabled. But, again, it takes both sides to come to an



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1 agreement, and we simply ran out of time and were not able to complete that set of
2 negotiations.

3
4 COUNCILMEMBER FLOREEN:

5 So that is your plan--it's on your plate to take up in the fall?

6
7 JOSEPH ADLER:

8 Yes.

9
10 COUNCILMEMBER FLOREEN:

11 And is that because there are lots of gives and takes in the exchange for negotiation?

12
13 JOSEPH ADLER:

14 Yes.

15
16 COUNCILMEMBER FLOREEN:

17 Is it clear that a two-tiered system on its own solves--is a less expensive solution for
18 Montgomery County taxpayers?

19
20 JOSEPH ADLER:

21 We cannot say it's going to be less expensive because some of the proposals might be
22 that a two-tiered system pays a higher level of benefits at the more disabled level than the
23 current 66 2/3. So we believe that it resolves the issue of officers who may be able to work
24 but are not 100% disabled. And so in other words, we believe that a two-tier system
25 similar to one we have with the Fire Service meets the needs of the County in a sense that
26 there may be folks who retire on a legitimate disability but that disability does not prevent
27 the officer--or the firefighter in this case-- from taking on some other less strenuous duties.

28
29 COUNCILMEMBER FLOREEN:

30 Right.

31
32 JOSEPH ADLER:

33 And higher-level benefits should go to those that are, in fact, mostly on either social
34 security definition disabled, which would prevent them from having any other meaningful
35 occupation. But I cannot represent that it's going to save money.

36
37 COUNCILMEMBER FLOREEN:

38 Sure. You don't know because it's an exchange. The F.O.P. was kind enough to provide
39 us with a comparative chart of the--of the County police versus other negotiated
40 agreements. Some of them include tiers and some don't. But looking at home with respect

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1 to the firefighters, their agreement, they have a heart and hypertension presumption. Do
2 the police have that?

3
4 JOSEPH ADLER:
5 They do not.

6
7 COUNCILMEMBER FLOREEN:
8 No. They have a 20-year retirement opportunity?

9
10 JOSEPH ADLER:
11 No.

12
13 COUNCILMEMBER FLOREEN:
14 That's with the firefighters.

15
16 JOSEPH ADLER:
17 Firefighters have it, not police.

18
19 COUNCILMEMBER FLOREEN:
20 But not police? They have a guaranteed rate of return on their drop?

21
22 JOSEPH ADLER:
23 Police do not.

24
25 COUNCILMEMBER FLOREEN:
26 The police don't? But they do have this tier? So, I mean, if these--all these--is it possible
27 that all these elements would be put on the table if you pursue a two-tiered approach?

28
29 JOSEPH ADLER:
30 I believe that all of those are legitimate bargainable issues.

31
32 COUNCILMEMBER FLOREEN:
33 Yeah, yeah. So we could end up with a situation with another set of expensive or at least
34 very different elements from what we have now. I very much--isn't that correct?

35
36 JOSEPH ADLER:
37 Yes.



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1 COUNCILMEMBER FLOREEN:

2 I mean, I very much appreciate what the Council President mentioned at the beginning,
3 that we should look at this comprehensively. And I think that's what you do when you're
4 doing this in negotiating--in negotiating agreement situation. Correct?

5
6 JOSEPH ADLER:

7 Yes.

8
9 COUNCILMEMBER FLOREEN:

10 You're looking at the full package of benefits, rights, and responsibilities?

11
12 JOSEPH ADLER:

13 Correct.

14
15 COUNCILMEMBER FLOREEN:

16 And there may be a cost, there may be a bigger cost, depending upon what the policy-
17 driven elements are? If we tell you that you must do something and absolutely no way out
18 of that, what does that mean in a negotiating experience?

19
20 JOSEPH ADLER:

21 Well, if the-- going back, if we have--if it's a resolution, a resolution does not carry the
22 same weight as a bill.

23
24 COUNCILMEMBER FLOREEN:

25 Well, what Mr. Berliner has proposed is a bill. It's now uncoded, but it's legislation. I
26 mean, you can't really escape that, can you? I mean, some people here would expect that
27 that would be the result. You know, that would be the rule--you got to do that.

28
29 JOSEPH ADLER:

30 Our belief is that whatever ultimately is negotiated would come back to this group for--as
31 legislation to be enacted.

32
33 COUNCILMEMBER FLOREEN:

34 Right.

35
36 JOSEPH ADLER:

37 And that we would have a fiscal note at that time. But just in theory, if the outcome is
38 predetermined and we must come up with something, then it would also mean that the
39 County would have--the F.O.P. legitimately would ask for certain other concessions as
40 part of the bargaining process.



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1 COUNCILMEMBER FLOREEN:

2 And would--do we have any idea of knowing whether there would be a--whether the
3 County would remain whole--the exposure to the County in cost would remain the same
4 as it is without that?

5
6 JOSEPH ADLER:

7 I could not give you that--
8

9 COUNCILMEMBER FLOREEN:

10 You don't know, right, because that's part of the exchange.
11

12 JOSEPH ADLER:

13 And also keep in mind that we have arbitration as a final step, and the arbitrator may
14 make a determination that goes against the County. So we really cannot say at this point
15 that it would come back as either cost control or cost savings. It may or may not. It's very
16 difficult to make that kind of guarantee ahead of the process.
17

18 COUNCILMEMBER FLOREEN:

19 But if we were to require you to negotiate some elements, and we'd say, you know, you
20 got to do it. You must do it. This must be what you leave the negotiating room with. That's
21 going to expose you to, as you said, all these other possible claims or demands, really, in
22 that environment. And to which, they'd be entitled, wouldn't they?
23

24 JOSEPH ADLER:

25 Yes.
26

27 COUNCILMEMBER FLOREEN:

28 So is it so clear that this solution would solve a problem?
29

30 JOSEPH ADLER:

31 Again, it is our intention to go back and try to negotiate a two-tiered system when we meet
32 with the F.O.P. in the fall. I cannot guarantee that we will have--that we'd be able to come
33 to you with a two-tiered system. We are going to put it on the table, and then we will
34 engage in good faith negotiations to attempt to get that.
35

36 COUNCILMEMBER FLOREEN:

37 But your job when you go in there, really, and I think under the law, you're supposed to
38 worry about the best interests of the taxpayer, as well, when you're in that environment,
39 right, and the public?
40



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1 JOSEPH ADLER:

2 Yes.

3

4 COUNCILMEMBER FLOREEN:

5 And certainly a fair relationship to the people who keep us safe?

6

7 JOSEPH ADLER:

8 Correct.

9

10 COUNCILMEMBER FLOREEN:

11 So all those elements need to enter into that exchange in the negotiating situation, right?

12

13 JOSEPH ADLER:

14 Yes.

15

16 COUNCILMEMBER FLOREEN:

17 Yeah. I have to say, Mr. President, these are the kinds of things that concern me about
18 directing this in legislation. We don't--I liked Mr. Leventhal's language. We have not gotten
19 the buy-in of the County Executive nor of the players to the table. We run the risk of
20 exposing the County to different kinds of demands. And there's no certainty that the
21 outcome will produce the results that folks believe that they might. I do voice my concern
22 that the Inspector General is not here because I wanted to ask him what the follow-up will
23 be, and I'd like to suggest that the Council ask the IG to look into the management
24 changes that have occurred as a result of his report. How are you doing in that regard, Mr.
25 Adler?

26

27 JOSEPH ADLER:

28 We have made some--we are recruiting for an additional doctor who's a certified--board
29 certified in occupational medicine, and we're in the final stages of that. And we have a
30 robust process of asking folks to come back, bring their postretirement medicals. And we
31 have--we're going through that process and we will continue to go through that. So I
32 believe that that particular loophole has been fixed, and that we are in the process of
33 bringing people back, asking for medical information. And if we suspect that there's an
34 issue, we then go to a full 3-member panel, IME, and back to the CAO for a
35 recommendation on what to do.

36

37 COUNCILMEMBER FLOREEN:

38 Because the bulk of the Inspector General's report had to do with how it was managed--
39 well, all of it. As Mr. Leventhal so ably pointed out, his recommendations had to do with
40 how that work is occurring in your shop. I know you had some issues.



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1 JOSEPH ADLER:

2 We had some major issues because we believe that the Inspector General did not look at
3 the proc--he looked at the processing, but he did not look at--let me back off. He never
4 once said that anyone who received a disability retirement didn't deserve it.

5
6 COUNCILMEMBER FLOREEN:

7 Right. That's really an important point, isn't it?

8
9 JOSEPH ADLER:

10 And he never said that anyone who is not medically disabled according to law. And so
11 there are some issues in terms of how you might define a disability and whether we're too
12 strict or too lenient--that's a legitimate policy question. But I think what got lost in all of this
13 is what's said earlier--11 a year is not exactly a very large number. Secondly, that not one
14 person is--at the time that he comes up to us for a recommendation and goes to the CAO
15 for signing, there isn't one example of someone who did not have a medically documented
16 illness or injury that is disabling according to the law. I think that's an important aspect to
17 remember.

18
19 COUNCILMEMBER FLOREEN:

20 Absolutely.

21
22 JOSEPH ADLER:

23 There isn't anyone who is disabled that the Inspector General has been able to show who
24 faked it--who fooled the doctors, fooled us in this process. All of them have some medical
25 issue that legitimately prevents them from doing the full duties of a police officer.

26
27 COUNCILMEMBER FLOREEN:

28 So you're saying that people who applied for disability benefits and were reviewed by the
29 Inspector General were disabled--the ones who were approved under the law?

30
31 JOSEPH ADLER:

32 Yes.

33
34 COUNCILMEMBER FLOREEN:

35 All right, and you dispute the conclusion that some have drawn--that there's been fraud
36 and abuse in that environment?

37
38 JOSEPH ADLER:

39 I think he said it could lead to it. I don't think he ever said there's fraud and abuse. But
40 again, I go back--



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1 COUNCILMEMBER FLOREEN:

2 A lot of other people have said that. And there's a big public misperception about that.

4 JOSEPH ADLER:

5 There's a tremendous misperception, and we believe some of the process changes will
6 tighten that up. I mean, the points that he cited where some folks maybe look like they're
7 fully--they're in full duty one week, and then they meet the criteria for disability retirement
8 the following week. And so there is a perception problem. We believe that the process
9 changes here will address those. We believe that adding a fourth doctor, and the
10 perception that perhaps one group has too much influence on the selection of the
11 physicians--we believe that's been addressed. So we think that these changes will, in fact,
12 go in that direction.

14 COUNCILMEMBER FLOREEN:

15 So what you're saying is that the compromised legislation will address those procedural
16 issues that you believe may have led to someone's perception that folks were taking--
17 abusing the process under the law?

19 JOSEPH ADLER:

20 Yes.

22 COUNCILMEMBER FLOREEN:

23 And so that's a good thing. We have a solution that's been laid out that addresses these
24 concerns. And then we have your intention to take up this tiered issue when you go to the
25 table next time around?

27 JOSEPH ADLER:

28 Correct.

30 COUNCILMEMBER FLOREEN:

31 Keeping in mind that the costs and challenges of the negotiating process, right? So--
32 without the need to have us tell you to do that? So that's your commitment?

34 JOSEPH ADLER:

35 Our intention is and the County Executive's intention is to put that issue back on the table.

37 COUNCILMEMBER FLOREEN:

38 Well, that's excellent. I think the problem is solved, Mr. President. Thank you very much.
39 That's the answer that we need. [applause]



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1 COUNCIL PRESIDENT ANDREWS:

2 Um, well, you really are an optimist, and that's good. I'm an optimist, too. I will say that
3 directly from the Inspector General's report, what he said was, "In this regard, our review
4 of certain service continued disability retirements approved by the Chief Administrative
5 Officer over prompt????? some of the past 3 years where police officers in a full-duty
6 work status disclosed patterns, trends, and behavior that we believe a prudent person
7 would consider abusive." So the Inspector General found what he considered to be very
8 serious problems. And in commenting upon the legislation that was before the Council--
9 that is before the Council, he said, "Key provisions in Expedited Bill 37-08 that we believe
10 are needed to effectively address deficiencies identified in our review to date include a
11 two-tier system with partial and total incapacitation options that also uses the current
12 medical reexamination provision." So he believes it is part of what needs to be done in
13 order to address this issue comprehensively. And the bottom line is that the only way that
14 we can be certain that we will have a two-tiered system in place in a reasonable period of
15 time--by a year or so, July 1 next year--is if the Council establishes that this is the policy of
16 the County government, and that then directs the parties to negotiate the terms of it. And
17 that's the gist of Council Vice President Berliner's amendment, which is the Committee
18 recommendation. I'm going to turn now to Councilmember Knapp, and then
19 Councilmember Ervin.

20
21 COUNCILMEMBER KNAPP:

22 Thank you, Mr. President. You know, it's always interesting to me, especially when we get
23 in budget season, the amount of time we spend on small items versus the amount of time
24 we spend on large items. I think Mr. Leventhal makes some very good points in his
25 remarks. This is an issue that should be addressed, as are many issues that come before
26 the Council and things that are raised by the Inspector General. In fact, about a year ago,
27 the Inspector General issued a report saying that the Council needed to reexamine how it
28 was undertaking the audit functions--looking at how we spend \$4.2 billion every year--
29 because he didn't think that it was necessarily set up in a way that we could maintain
30 things as well as we should. And he made some very good points. The Council 5 or 6
31 months later actually made some changes to the way it addressed its audits functions,
32 and it took about 15 minutes for the Council to address it. And I would argue that how we
33 manage \$4.2 billion worth of taxpayer money is at least as significant, if not more so, than
34 what it is that we're addressing here. And so it's always interesting to me how we spend
35 so much time on some small issues and on the big issues we kind of just hit and move on.
36 A number of reasons that some of us are asking questions today is we're not--haven't had
37 the benefit of participating in the Committee discussions because we're not on the
38 Committee. And I am one of those members who is not on the Committee. I just had a
39 couple questions on the motion before us. When did the firefighters' two-tier system go
40 into effect?



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1 JOSEPH ADLER:

2 January 1, 2000.

3
4 COUNCILMEMBER KNAPP:

5 2000. So it's been in effect for the last 9 years. When did the County Executive recognize
6 the need to look at a two-tier system for other--other of our employer organizations?

7
8 JOSEPH ADLER:

9 Approximately about a year, a year and a half ago when we took a look at the current
10 system with F.O.P. and some of the other ones we had. So let's say 12-18 months past.

11
12 COUNCILMEMBER KNAPP:

13 In the press release that the County Executive's office issued on August 11 identifying the
14 workgroup's 7-point program of recommendations, it does identify--if I can get to this point--
15 -"Consider changing current broad disabled qualification into two, fully disabled and
16 partially disabled, each with their own criteria and different benefits." And then in
17 parentheses, it says, "This was a late recommendation from the Police Chief who was
18 represented on the workgroup." Which would lead me to believe that there wasn't a lot of
19 malice that's done, and that was last August. Was there any follow up from the
20 workgroup? Is there any documentation that the workgroup could provide as to how that
21 two-tiered system--where the recommendation came from or what the justifications were?

22
23 JOSEPH ADLER:

24 Once that report was done, there was no follow-up by that group. We did take a look at it
25 in OHR in terms of whether that was something that was feasible and whether that's
26 something we wanted to put on the bargaining table and concluded that it was.

27
28 COUNCILMEMBER KNAPP:

29 It would appear just from the press release that this was something that the Police Chief
30 kind of raised at the last minute, and that it was something that people just didn't disagree
31 with and it was put on the list. Is that a fair characterization? Just given the parentheses,
32 that was--

33
34 JOSEPH ADLER:

35 You're taxing my memory. But we believe that that was something that came--this was a
36 group that took a look at what are some of the changes that we could make or what are
37 some of the areas where we could tighten up, and this came as one of the
38 recommendations from the Police Chief. And we felt that it addressed the need, again, of
39 a situation where someone who's not--who's disabled according to the definition of the law



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1 but is able to continue to work in many other capacities, that having a two-tiered system
2 would address that need.

3
4 COUNCILMEMBER KNAPP:

5 And so has there been any analysis done since then as to looking at the two-tiered
6 system? What the benefits of a two-tiered system or a multi-tiered system would be
7 relative to what we currently have?

8
9 JOSEPH ADLER:

10 We did survey some of the other jurisdictions. Some of the literature was read. And also,
11 we took at look at how the firefighters' two-tiered system worked in terms of assigning a
12 lower benefit first. And then if somebody meets social security criteria, then they get the
13 higher benefit. And we felt that that was a fair compromise.

14
15 COUNCILMEMBER KNAPP:

16 But is there any cost-benefit analysis? Is there anything that's been done that we could
17 look at to say if we do this, it costs us this much? If we have tiers that have this type of
18 percentage, it looks like this much it could save us or it's going to cost us this much more?
19 Any of that type of analysis that's been done yet?

20
21 JOSEPH ADLER:

22 No, no. Because that is, I mean, just pure speculation in terms of what future behavior
23 might be. So we could bring you a lot of analyses, but they would all be speculation.

24
25 COUNCILMEMBER KNAPP:

26 OK. Um...I'm interested--again, not having been a part of the Committee, knowing that this
27 is an issue, knowing that there are procedural elements that the IG identified, that I'd
28 heard a lot of the conversations were being addressed or could be addressed primarily
29 through management, I went through the packet that was prepared for the Council trying
30 to identify the analysis that was done for a two-tiered system, and I'll be honest. In the
31 packet that was provided to the full Council, there was a paragraph on Circle 90 of a
32 report done by Managed Care Advisors in which it says--in a paragraph, it talks about that
33 the County--"For the recommendation of the Council, the County consider adopting a two-
34 tier system similar to that in place for Fire and Rescue." And that's, as near as I can tell,
35 the only place that this even comes up. It wasn't initially identified in the IG's report. It was
36 referenced here as a potential best practice. I will just note that there are also other best
37 practices that were identified here that I don't believe were actually captured in all of the
38 legislation. So I was intrigued by that. And there's really no other further analysis that
39 identifies why a two-tier system, how a two-tier system, what structure the two-tier system
40 in this packet. Am I missing something, Mr. Drummer?



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1 ROBERT DRUMMER:

2 About the recommendation for the two-tier system?

4 COUNCILMEMBER KNAPP:

5 I'm going through the packet that we have from 2 weeks ago. There's 151 pages, and I
6 found a paragraph that references a two-tier system. And then there was also a piece--
7 actually, I'm not even sure if it's in this one. I understand the Inspector General in
8 response to legis--in response to a request to comment on the legislation, said he thought
9 a two-tier system could be helpful.

11 ROBERT DRUMMER:

12 Yeah, you're right. There's 3 places. There's the letter from the IG, there's the report from
13 Managed Care Advisors, and there's the mention in the Executive's report. Those are the
14 3 places, yes.

16 COUNCILMEMBER KNAPP:

17 So we're having a big discussion here, and altogether, there are about 8 sentences that
18 talk about a two-tier system?

20 ROBERT DRUMMER:

21 Yeah. There is also a cost analysis for the two-tier system. It's in the fiscal impact
22 statement in--it's in the packet on the 28th. It's the Mercer actuary analysis on Circle 116,
23 which was attached to the Executive's fiscal impact statement. It does try and do an
24 estimate of the cost savings as a result of going to the firefighters' split of 70 and 52 1/2.

26 COUNCILMEMBER KNAPP:

27 OK. But, again, as Mr. Adler just identified, even that's pretty speculative because we
28 don't know--it's all based on a set of assumptions. So this is what Mercer's sets of
29 assumptions are and gave us a little bit of an analysis on that?

31 ROBERT DRUMMER:

32 That's right.

34 COUNCILMEMBER KNAPP:

35 OK. I appreciate what the Council President said, that the IG had talked about a two-tiered
36 system. But then looking back at his letter, it only was in response to the legislation that
37 had been drafted. I don't believe in that letter he indicates that a two-tiered system is the
38 only way, just that a two-tiered system as proposed here could address some of the
39 issues they've identified.



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1 COUNCIL PRESIDENT ANDREWS:

2 He indicated that he thought it would address some of the issues that he identified in his
3 report.

4
5 COUNCILMEMBER KNAPP:

6 In response to the legislation that had been drafted. Not that it was the only way, but it
7 was potentially a way.

8
9 COUNCIL PRESIDENT ANDREWS:

10 He supported it.

11
12 COUNCILMEMBER KNAPP:

13 OK, as a way potentially, but not the only way. I guess, as I kind of walk through this, I
14 appreciate all the efforts, and there have been a lot of efforts. We've spent a lot of time on
15 this. There's a lot of paper that we're spending on this issue, when it would appear to me
16 that through the course of the collective bargaining discussion we actually have addressed
17 the issues that have been raised in the IG's report that brought us here in the first place.
18 And as near as I can tell, there are, again, as I just said, 8 sentences that talk about a two-
19 tier system. It might be a good idea. I haven't read anything here that shows it's the only
20 way. It's a way. It's--how it would be structured. Why we should be deciding it today. I've
21 heard from the Executive Branch that they feel it should be negotiated. The other
22 elements that we have in the consensus document are a result of negotiation. And so I'm
23 sure that whatever is characterized in the newspaper will have us not having
24 accomplished something. But the reality is we will have accomplished what has been laid
25 out in the Inspector General's report if we approve the consensus document. And if the
26 Executive Branch thinks that a two-tiered system is something that should be explored, if
27 the Council thinks a two-tiered system is something that should be explored, we have--
28 when do the negotiations reopen? So--

29
30 JOSEPH ADLER:

31 October of 2009.

32
33 COUNCILMEMBER KNAPP:

34 So we've got between the middle of May to the middle of October to actually do analysis
35 on a two-tiered system, a three-tiered system--any number of tiered systems if we think
36 that's something that should be done--and actually have some analysis done to
37 understand what it is that we would actually be negotiating, what the benefits would be for
38 our employees and what the benefits would be for the County. And I think that that seems
39 to make a whole heck of a lot more sense than having a discussion today on something

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1 that, near as I can tell, has only been something referenced in the documents that have
2 been provided to us to make decisions on in the first place.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Councilmember Knapp. Councilmember Ervin?

6
7 COUNCILMEMBER ERVIN:

8 I am going to support Councilmember Leventhal's amendment because I think it makes
9 the most sense. I've been in many, many meetings in the MFP Committee on this one
10 issue, and I, in Committee, opposed Councilmember Berliner's amendment. My biggest
11 concern is about the collective bargaining process in the County as we move forward. I
12 believe that anytime that the legislative body dictates what will be determined in
13 bargaining is like a kangaroo court. And so I have no intention of supporting anything on
14 this dais that puts a fait accompli what we want done in bargaining. I just don't believe it's
15 my role as a Councilmember to do that. I also want to talk just a second about The
16 Washington "Post" because it keeps coming up. I did not run for this Council seat because
17 The Washington "Post" agreed with my positions on any issues. And for The Washington
18 "Post" editorial board to continue to editorialize on this particular issue as if it was the
19 biggest thing that we're facing in this County week after week is really--I think they're
20 doing a great disservice to our County, and especially the police officers who give their
21 lives, many of them, every single year in this County. We all received an e-mail from a
22 Corporal J.R. Howard yesterday, and Mr. Howard sent us a copy of a police officer's Code
23 of Honor, and I take what his words were very seriously. I come from a military family. My
24 father was a Air Force police officer for 28 years, and I know that families also are
25 connected to your Code of Honor in terms of your service and your sacrifice to the
26 community. And so I want to stand here with all my colleagues on this Council and
27 congratulate you and commend you for all the work that you do on our behalf each and
28 every day. The Code of Honor says, "I am a Montgomery County police officer, a soldier
29 of the law. To me is entrusted the honor of the Department. I must serve honestly,
30 faithfully, and if need be, lay down my life as others have done before me rather than
31 swerve from the path of duty. It is my duty to obey the law and to enforce it without any
32 consideration of class, color, creed, or condition. It is also my duty to be of service to
33 anyone who may be in danger of distress and at all times conduct myself that the honor of
34 the Department be upheld." And what we have seen over these past several months is, in
35 my opinion, something that separates citizens of this community from the officers that
36 uphold this Code of Honor each and every day. And I am here to stand with the F.O.P.
37 and with the officers who do this work day in and day out for us every single day. I do not
38 believe that the problem that we're trying to solve here gave rise to all of this paper. This
39 could've been resolved by the County Executive at any point along the line. I don't believe
40 this needs to be legislated. The F.O.P. came to the table. They didn't have to. They sat



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1 down with management to try to resolve this issue. They were not able to resolve the
2 issue, but term bargaining resumes in the fall. I believe that what Councilmember
3 Leventhal has outlined for us today, as it is on page Circle 100--well, this doesn't have a
4 Circle or a number. Page 3 of the document of the memo today basically says that
5 representatives from the F.O.P. and OHR told Council staff that this amendment
6 accurately captures the tentative agreement between the parties on those items that were
7 agreed upon. It should be noted that all of the tentative agreements on each of these
8 items was contingent upon an agreement on all provisions being negotiated. And so with
9 that, I will support Councilmember Leventhal's amendment, and that's all.

10
11 COUNCIL PRESIDENT ANDREWS:

12 Thank you, Councilmember Ervin. Councilmember Elrich?

13
14 COUNCILMEMBER ELRICH:

15 I have a question for Mr. Adler. Will the process of changing this to a two-tiered system--is
16 that going to change the number of disabilities or just the level of disabilities?

17
18 JOSEPH ADLER:

19 Again, that's--a two-tiered system is important to us because we believe, again, it
20 addresses an issue that has been identified. Whether that would reduce the number of
21 folks going on disability, I really could not tell you that at all.

22
23 COUNCILMEMBER ELRICH:

24 The issue that's been identified is...

25
26 JOSEPH ADLER:

27 Again, that there are--that folks are able or--we had one definition of disability. And that
28 where people go on 66 2/3, the assumption is made that they cannot do any other work,
29 and that is a false assumption. There are many, many things that police officer is required
30 to do, and they do get disabled. They work hurt. So that a two-tiered system would
31 address the issue of folks that are not disabled according to social security maximum but
32 they are disabled according to the definition of law, but are still able to do some other kind
33 of work. So we believe we would address that issue. So it is important to us. We are going
34 to, as indicated, take it up at the bargaining table. But for me to be able to tell you that it
35 would result in either a lower or higher number of folks going out, I don't know. Again, that
36 depends on injuries that occur and the decisions that are made by individual police
37 officers to either work hurt or to apply for a retirement.

38
39 COUNCILMEMBER ELRICH:

40 And this plays out differently in the nonpublic safety employee sector?



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1 JOSEPH ADLER:

2 Correct.

4 COUNCILMEMBER ELRICH:

5 Because my understanding is that the same injury that would cause a police officer to get
6 the 66 2/3 disability--say, for example, a knee on which he could no longer run--would, in
7 the other unions, that person would simply be accommodated in their work and they would
8 continue to work.

10 JOSEPH ADLER:

11 That is correct. In other words, it's-- definition in terms of public safety is a little more
12 stringent than it is for folks that may have sedentary jobs. So that even if you get a
13 disabling injury that perhaps prevents you from a major life activity, it doesn't necessarily
14 prevent you from doing your job.

16 COUNCILMEMBER ELRICH:

17 So what would prevent somebody from doing their job in the Police Department or the Fire
18 Department is a much potentially lower-level injury than something that would prevent you
19 from doing a job in a library or a school?

21 JOSEPH ADLER:

22 For full duties, yes.

24 COUNCILMEMBER ELRICH:

25 Yes. What do you think changed the pattern of Fire Department retirements? Do you think
26 it's changed significantly?

28 JOSEPH ADLER:

29 It has changed. We think, you know, the drop program was one, and the other one we
30 believe was a two-tiered system. We believe both have worked together to reduce the
31 number of retirements going out, especially at the higher level.

33 COUNCILMEMBER ELRICH:

34 At the higher level? But there's no guarantee that if you negotiate something, that the
35 lower level is going to be lower than the current level?

37 JOSEPH ADLER:

38 Correct.



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1 COUNCILMEMBER ELRICH:

2 Can you explain the Fire Department drop?

4 JOSEPH ADLER:

5 If you decide to retire, you have a 3-year drop. Meaning that if you put in your papers and
6 say, "I'm going to retire 3 years from now. I want to go into the drop program." The drop
7 program then puts your--you continue to work as a full-fledged firefighter. Your retirement
8 allowance or your retirement payments go into a fund. The County guarantees a 8.25%
9 growth. At the end of the 3 years you, in fact, do retire. You're required to go out at the
10 end of the period. And then you are--you start collecting your retirement allowance, but
11 you also get a lump sum amount for those 3 years. The offset for the firefighter is that
12 obviously his--you know, he's 3 years' fewer credited service. The benefit is that you have
13 this lump sum that you go out with.

15 COUNCILMEMBER ELRICH:

16 Is there any characterization what those lump sums have looked like? And I've heard
17 numbers tossed around. Is \$200,000 a number that some people have walked out with?

19 JOSEPH ADLER:

20 Probably not quite that high, but certainly in that ballpark.

22 COUNCILMEMBER ELRICH:

23 And so that would affect the person's decision. I believe they also-- they have to give that
24 up if they take disability?

26 JOSEPH ADLER:

27 Correct. Disability retirement, yes.

29 COUNCILMEMBER ELRICH:

30 So they actually face a choice between taking out this large lump sum or picking a
31 disability retirement?

33 JOSEPH ADLER:

34 Correct.

36 COUNCILMEMBER ELRICH:

37 Might that affect somebody--is it reasonable to think that would affect--



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1 JOSEPH ADLER:

2 If you are able to continue working and you're able to do all of the things that a firefighter
3 needs to do, I would imagine that that could color your opinion. But if you're not able to
4 and if you have some severe disabilities, then obviously you would not be able to continue
5 to work in the drop program. Because being enrolled in the drop program does not put you
6 in any kind of special duty status.

7
8 COUNCILMEMBER ELRICH:

9 Right. Um...I guess I'm just--I'm not altogether comfortable with how we've arrived where
10 we are. And I think it's an odd discussion for anybody to say, "I wasn't part of the
11 Committee discussion and I haven't heard it," because we were voting on massive
12 packets, sheets of paper that are products of other committees. And we're voting yes or
13 no, pretty much yes, on stuff we've never seen and never been in the discussion with. So I
14 don't know that not being part of a committee is a good escape, and I don't know whether-
15 -it's not exactly true that we haven't talked about this, either publicly or privately. So this is
16 not news to anybody, I think, on the Council. I'm not comfortable with the suggestion, also,
17 that the Council can't have an opinion on something that's going to become part of policy.
18 That only opinions occur after there's a bargaining agreement, and you can't have any
19 opinion about what something should look like or shouldn't look like before the bargaining.
20 It seems kind of odd to restrain us on when we can look at things and when we can think
21 about what's appropriate or not. And I do think there's merit in having a two-tiered system.
22 But I'm also concerned about the implications of a two-tiered system, and I didn't vote for
23 the Berliner amendment in Committee because I am concerned about being driven over a
24 cliff. I think there have been suggestions about what this could cost. I think when the
25 Executive was bargaining was--the number that you put into a two-tiered system was
26 something like 60 at the low tier and 72 at the high tier. And I guess my concern is that
27 that doesn't make much difference than 66 2/3 as an average for everybody if you're
28 looking at cost. And a lot of the unfortunate publicity that went out around this when this
29 came out was the Montgomery County taxpayers were being nailed for a very, very
30 expensive, inappropriate system, and we've kind of learned that it's not necessarily
31 inappropriate. And I believe that under the two-tiered system, you would not change.
32 Anybody who was eligible under the old system would've still been eligible for retirement
33 under the current system under the proposed 2 tiers, right? Nothing changes with 2 tiers?

34
35 JOSEPH ADLER:

36 The proposal would've been the same as firefighters, that initially you would go out on a
37 lower tier. If you're then able to show to the Panel, to the medical doctor that you're
38 disabled up to the social security maximum, you would then be eligible for the higher tier.
39 But the assumption would be at the lower tier. And this was part of the negotiation and this
40 was part of collective bargaining. There were other proposals on the table. Again, we felt



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1 that in order to have an incentive to go to a two-tiered system, we need to make it
2 somewhat better than what currently exists.

3
4 COUNCILMEMBER ELRICH:

5 I think that--I mean, the key point of that, though, is people are looking--these people, the
6 public, or some people have perceived--I've certainly had conversations with folks on the
7 other side--that somehow adopting 2 tiers will address the alleged abuse of the system.
8 But the truth is that if you're unable to perform your duties as a police officer, you would be
9 qualified to retire under a lower tier rather than a higher tier, depending on the level of the
10 disability. But it would not have changed one bit had any of the 11 officers per year on
11 average who are qualified to retire--they would still meet the disability test?

12
13 JOSEPH ADLER:

14 Well, there would be some time limits in terms of when an injury or an illness occurred.
15 And so there are some time limits that would, I think, force the issue. But to your question,
16 are we changing any of the criteria or any of the requirements for a police officer to do his
17 or her job, the answer is no.

18
19 COUNCILMEMBER ELRICH:

20 And I'll point out also that when I looked at the--it's in our notes here, the Group "G," sworn
21 fire and rescue personnel, and the long-term analysis of retirements--even after you
22 change the system, you get as many as 50% of fire personnel retiring in some years on
23 disability and as low as 17%. But it has not magically eliminated what some perceive
24 might be a very high number. It fluctuates year to year, probably, depending on the
25 officers and what they experience. So what I see is an average change of 1.4 or 1.3
26 retirements a year no longer being disability but now being characterized in another
27 category. So one officer changes their mind because of the drop program. That in and of
28 itself would've radically altered the percentages of Fire Department members who have
29 retired. I think George makes the point it's only an average of 11 people a year. It only
30 takes, if you got a small number of retirements, the movement of one person out of 10
31 people to cause a 10% change in the number of people who are retiring, and then appear
32 to make a number that looks reasonable appear unreasonable just by behavior of a very
33 small number of people. Is that a fair characterization? Statistics are so much fun because
34 you can make them say anything.

35
36 JOSEPH ADLER:

37 It's just the point is that out of--in terms of when the population is very small in this case, or
38 relatively small, yes, one or two individuals or outliers can change your, you know, the way
39 the statistics go, yes.



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1 COUNCILMEMBER ELRICH:

2 OK, I'm going to--this has been really difficult for me. I, on the one hand, think the Council
3 could mandate and would not be inappropriate to say you should negotiate a two-tiered
4 system. I am really worried about what those negotiations potentially could produce in
5 terms of the cost implications for the County. It's hard not to be concerned about that in
6 the current economic climate that I don't see it radically changing. And I don't see us being
7 freed of long-term costs in any event, and I think we have to think about that. Nancy and I
8 looked at preparing a resolution which would ask you to examine that and negotiate
9 toward that. But I certainly want an escape valve to be able to say if this is driving us over
10 a cliff, please don't go there. I'm not interested in looking at the world of unintended
11 consequences and having to swallow it, and that's my fear about the bill with the inclusion
12 of the mandatory "you must come back." Because I believe if we say you must come back,
13 you will come back. And they will then put everything on the table, as you've said. Is that
14 true? It all goes on the table?

15
16 JOSEPH ADLER:

17 I don't want to speak for the F.O.P. I believe the concept of bargaining is you put as much
18 on the table for both sides as you think you can get away with.

19
20 COUNCILMEMBER ELRICH:

21 And they would be prudent to say, "If you're going to treat us as public safety employees,
22 we want to be treated like the firefighters"?

23
24 JOSEPH ADLER:

25 I'm going to defer to F.O.P. to answer that.

26
27 COUNCILMEMBER ELRICH:

28 My suspicion is that's what's going to happen, and that the consequences of that are
29 severe. If you had \$200,000 in the drop this year, you'd be guaranteed 8.25 of return,
30 right? And so it'd be 17,000?

31
32 JOSEPH ADLER:

33 For firefighters.

34
35 COUNCILMEMBER ELRICH:

36 For firefighters. If you'd had \$200,000 in the drop last July 1, and this July 1 your \$200,000
37 is worth \$100,000--pretty likely scenario for many of us who have accounts--what would
38 the County have to put back into that person's account? Do you owe them 16,500 or you'd
39 owe them 116,500?



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1 JOSEPH ADLER:

2 I don't know if I understand the question.

4 COUNCILMEMBER ELRICH:

5 If you had money in the account and you're guaranteed an 8.25% return, and the account
6 started at \$200,000 last July, and a year later the value of that account because of the
7 change in the market is now only \$100,000, what is the County obligated to put into that
8 person's account?

10 JOSEPH ADLER:

11 Well, the County is obligated to protect your principal, and then pay you an 8.25 interest.

13 COUNCILMEMBER ELRICH:

14 So if your principal--

16 JOSEPH ADLER:

17 If your principal--I mean, if you're projecting some scenario where the County made some
18 very ill-advised investment or put the money into Bernie Madoff's hedge fund and lost of
19 all it-- if that were the case in a committee?????, you know, the pension fund is liable for
20 the principal, plus the 8.25% interest.

22 COUNCILMEMBER ELRICH:

23 But you'd have to make a bad decision or a stupid decision to lose \$100,000 in the market
24 this year. You just couldn't have made the same rational decision all the rest of us have.
25 We've all watched our funds evaporate. So we're liable for the principal in a bad year?

27 JOSEPH ADLER:

28 Yes.

30 COUNCILMEMBER ELRICH:

31 OK, I'm-- I do not want to go through a vote no on this bill and then back to the resolution.
32 I think we all know this Council is split probably 4-4 on the bill if it contains Mr. Berliner's
33 amendment. But I really do appreciate Mr. Berliner's amendment in attempt to get to a
34 compromise. And like I said, I don't think it's the wrong thing for the Council to do. But I
35 think it's really not productive for us to lock up 4-4 and then try to figure, how do we get
36 ourselves back out of that box again? So I will vote to pull the amendment out. And then I
37 hope Ms. Floreen and I will introduce the resolution which directs the Executive to
38 examine and negotiate toward but allows you the latitude not to drive us into financial
39 suicide. So--



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1 COUNCIL PRESIDENT ANDREWS:

2 All right, thank you, Councilmember Elrich. Council Vice President Berliner?

4 COUNCIL VICE PRESIDENT BERLINER:

5 Oh, I think all has been said that needed to be said. I would say with respect to some of
6 the points that have been made, particularly with respect to the final contours of a two-tier
7 system, that that is precisely why the bill before my colleagues leaves that to the collective
8 bargaining process. To the extent to which it is important that there be a different drop
9 program, that is part of what would be negotiated. So the only directive that the Council
10 would be making--and it appears as if the Council will not be making--with respect to this
11 matter is that we do believe a two-tier system must be part of it. From my perspective, if
12 the Council were to, in fact, make that policy statement, the cost of obtaining a two-tier
13 system, in my judgment, would be less. If we direct--if we say as a matter of policy this is
14 what we will get, then I believe that we have circumscribed the negotiations in a manner
15 that will make it less costly for us to achieve that. If we beg and plead that this be a part of
16 it, I believe it will cost us more. Now, everybody has had their own experience with
17 negotiations and has different experiences and, therefore, can come to different
18 conclusions. Those are mine, and that is why I felt that having this directive from the
19 County, that as a matter of policy, this should be the result, would actually end up costing
20 us less to get an appropriate response, one that the parties should negotiate. So it is
21 ultimately all about leverage. We haven't had any in these conversations to date, and it
22 looks as if we won't going forward. And if that's the will of the majority of my colleagues,
23 then that's the will of the majority of my colleagues. So with that, I think we ought to just
24 call for a vote with respect to this matter and move on because we do have lots of other
25 things that we need to attend to.

27 COUNCIL PRESIDENT ANDREWS:

28 Yes, I think we are ready for the vote. I think we're ready for the vote? OK. We'll have time
29 for final comments. All right, all those in favor of Mr. Leventhal's amendment, please raise
30 your hand. And that is Mr. Leventhal, Ms. Ervin, Mr. Knapp, Ms. Floreen. And opposed?
31 Council Vice President Berliner, myself, Councilmember Trachtenberg, and
32 Councilmember Elrich. All right, so that is rejected on a 4-4 vote. Councilmember
33 Leventhal?

35 COUNCILMEMBER LEVENTHAL:

36 Well, I will not be able to vote for the bill with Mr. Berliner's amendment in it, and I very
37 much regret that progress could be made today here. I do think that substantial progress
38 is enshrined in the language approved by the Committee, the consensus language that all
39 sides have agreed to, and let me just be clear. I do think that a good politician listens and
40 tries to work things out with all parties. So some may want to criticize me or other

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1 colleagues for speaking with our employees and seeking to ascertain what is agreeable to
2 them. But I do believe that's the job of an elected official, is to work with as best as
3 possible all stakeholders to a discussion. My understanding and my belief is that for the
4 Council legislatively through law to impose upon a bargaining process one small piece of
5 what will ultimately be a large and complex agreement is a violation of collective
6 bargaining. It is strongly opposed by the people who work for us in whom we put our
7 confidence. And so with regret--because I think progress could have been made here
8 today--I will have to vote against this bill. And I would just say to my friend, the Council
9 President, progress could have been made under your leadership if we were willing to
10 move with the consensus language that all parties had agreed to. If it is the desire of the
11 presiding officer to insist upon a bill which contains unacceptable language that half the
12 Council has now voted to remove, my suspicion is--I can only speak for myself, but I will
13 not vote for that. And I very much regret that where progress could have been made on an
14 issue that has been identified by the Inspector General, that the public perceives is
15 something that needs to be corrected, it appears that the Council is not going to be able to
16 make progress unless we are willing to strike this language. I will not vote for this bill with
17 this language--with the Berliner language contained. I'm sorry to call out the name of my
18 friend Roger Berliner. I enjoy working with him, but it has been described as the Berliner
19 amendment, and I will not be able to vote for the bill with that language contained in it.

20
21 COUNCIL PRESIDENT ANDREWS:

22 OK. All right, I think we are ready for a vote on the bill. And the Clerk will call the roll.

23
24 CRYSTAL BROCKINGTON:

25 Mr. Elrich?

26
27 COUNCILMEMBER ELRICH:

28 Yes.

29
30 CRYSTAL BROCKINGTON:

31 Ms. Trachtenberg?

32
33 COUNCILMEMBER TRACHTENBERG:

34 Yes.

35
36 CRYSTAL BROCKINGTON:

37 Ms. Floreen?

38
39 COUNCILMEMBER FLOREEN:

40 No.

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1 CRYSTAL BROCKINGTON:
2 Mr. Leventhal?
3
4 COUNCILMEMBER LEVENTHAL:
5 No.
6
7 CRYSTAL BROCKINGTON:
8 Ms. Ervin?
9
10 COUNCILMEMBER ERVIN:
11 No.
12
13 CRYSTAL BROCKINGTON:
14 Mr. Knapp?
15
16 COUNCILMEMBER KNAPP:
17 No.
18
19 CRYSTAL BROCKINGTON:
20 Mr. Berliner?
21
22 COUNCIL VICE PRESIDENT BERLINER:
23 Yes.
24
25 CRYSTAL BROCKINGTON:
26 Mr. Andrews?
27
28 COUNCIL PRESIDENT ANDREWS:
29 Yes. All right, the bill does not pass on a 4-4 vote. I will now move a couple of
30 amendments. First, I want to amend that we add an annual report to the bill, which I
31 could've amended a little while ago, but it doesn't include one, and I think it's important to
32 have one. So--no. No, the bill goes forward. No, the bill's not defeated on a tie vote. The
33 bill--the bill is before us.
34
35 COUNCILMEMBER LEVENTHAL:
36 The bill fails to pass on a tie vote.
37
38 COUNCIL PRESIDENT ANDREWS:
39 No. No. You can get a legal opinion if you like, Mr. Leventhal.
40



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1 MICHAEL FADEN:

2 Our advice--our consistent interpretation is that it takes a majority of the Council, the 5
3 votes, to finally kill a bill. The bill does not go forward. But unlike certain land use issues
4 where the law includes the provision allowing for failure for one of the necessary
5 affirmative votes, there's nothing in the charter or the law that applies that to legislation.
6 The Council can do a number of things to a bill by a majority of those voting, but we
7 believe final action can only take place with a charter majority--that is 5 votes.

8
9 COUNCILMEMBER LEVENTHAL:

10 So the bill is in limbo on a tie?

11
12 MICHAEL FADEN:

13 The bill did not pass. It is still before you subject to amendment.

14
15 COUNCIL PRESIDENT ANDREWS:

16 OK. All right, so the amendment would be to require an annual report by March 1 of each
17 year so that we have regular reporting. And then I will make an amendment to bring the
18 Council together to strike the Berliner amendment. OK, that's moved and seconded.
19 Council Vice President Berliner?

20
21 COUNCIL VICE PRESIDENT BERLINER:

22 And I--Mr. Leventhal, I think that we are all on one page here. We sought to--we were split
23 as to whether or not this two-tier system is appropriate to have in legislation. We are not
24 split with respect to going forward with the areas that have been agreed to by the parties
25 and that do reflect reforms that are necessary. I regret, obviously, that the final bill will not
26 contain this two-tier system. But we aren't able to achieve a consensus there, and that
27 lack of consensus should not deprive us of making progress. And I believe that that is
28 what the bill in its current form will allow us to do.

29
30 COUNCIL PRESIDENT ANDREWS:

31 Yes. I want to be very clear about my view of what we're, I believe, about to pass, and that
32 is that I believe it is an important step forward. The reforms that are included in the
33 agreement that was reached between the Executive and the F.O.P. includes very
34 important changes in how the Panel is selected. Very different from the current situation.
35 Providing independence on the Panel in terms of not having a veto of the applicants that
36 are selected to the Panel by the parties. Requires that there be Panel members that are
37 certified in occupational medicine or that have 10 years of experience practicing it. That's
38 a very important change that is not in the current Panel. It requires an independent
39 medical exam to be done unless there is an obvious reason why it's not necessary. And it
40 requires an annual review for the first 5 years after retirement, for the CAO to have the

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1 individuals who have received disability retirement to certify that it remains eligible. So
2 those are 4 very important changes to our current system that I do believe are essential
3 changes. And I want to be very clear that while I think the Council could've taken 2 steps
4 forward today, this first step is a very important one, and I strongly support it.
5 Councilmember Trachtenberg, then Councilmember Leventhal.

6
7 COUNCILMEMBER TRACHTENBERG:

8 Thank you, President Andrews. I can recall that when we first started addressing the
9 issues raised by both the Executive Branch and the IG, that I had encouraged leadership
10 within F.O.P. to start working with the Executive Branch. So I want to acknowledge that
11 they did take those steps. I am very aware of it, and I think we all are. But I also want to
12 acknowledge the collaboration that will produce the passage of a bill this morning. I think
13 it's really important to recognize the collegial and thoughtful way that the Council President
14 has forwarded this topic. And I think that's important to state, and I would agree with him
15 that the passage of what I'm assuming is going to be a bill that reflects what was agreed to
16 between the Executive Branch and the F.O.P. It is a first step. It is a first step in bringing
17 about meaningful reform. But I also want to just state for the public record that I believe as
18 we continue to address the issue of disability retirement, that there are 2 elements that do
19 need to be addressed. One is a multi-tiered approach. I'm hoping that will happen
20 eventually. But the other, really, is the enhancement of the occupational medicine
21 programming that is provided by the County, and I intend on raising issues with that during
22 the course of the summer. Because those 2 things in tandem with the first step that we're
23 taking today is really what will bring about the kind of reform that not only speaks to the
24 standards of government which we are used to here in Montgomery County, but they are
25 also the things that we can do to protect and maintain an equitable and really valuable
26 benefit to those who serve.

27
28 COUNCIL PRESIDENT ANDREWS:

29 Thank you, Councilmember Trachtenberg, and I appreciate your leadership over the last
30 year on this. Councilmember Leventhal?

31
32 COUNCILMEMBER LEVENTHAL:

33 I hope the Chair of the MFP Committee enjoys herself all summer tinkering with the
34 occupational medicine qualifications of the Disability Review Panel. I will be drinking
35 margaritas on the beach. [laughter] I would like to clarify before we vote that as the
36 underlying--first of all, I think this is a good outcome, and I understand the parliamentary
37 steps that have been taken here and I concur with them. I think they're just fine. I
38 congratulate the Council President on getting a bill passed. I think it's a good outcome
39 here today. And the Chair of the MFP Committee, who is going to just keep on working on
40 this.



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1 COUNCILMEMBER TRACHTENBERG:

2 Yes, and I'll still be enjoying my margaritas, Councilmember Leventhal, while I'm working.

4 COUNCILMEMBER LEVENTHAL:

5 Excellent. But as the maker of the underlying motion that was approved by the Committee,
6 I would like to clarify for the purpose of legislative intent and I would like the minutes to
7 reflect that the word "accident" in the legislation does not apply to occupational disease or
8 blood-borne pathogens. These exposures can take years to manifest. I'm not asking for a
9 vote on that point. I'm simply stating it for the record. I hope it will be reflected in the
10 minutes so that, if necessary, it can be cited as legislative intent because it is my intent as
11 the original sponsor of the language passed by the Committee. And I am looking forward
12 to voting for this bill.

14 COUNCIL PRESIDENT ANDREWS:

15 OK, thank you. All right, we are ready for a final vote on this legislation. Will the Clerk
16 please call the roll?

18 CRYSTAL BROCKINGTON:

19 Did you vote on the amendment, sir?

21 COUNCIL PRESIDENT ANDREWS:

22 I believe it was accepted. I think the final report was accepted.

24 CRYSTAL BROCKINGTON:

25 OK.

27 COUNCILMEMBER LEVENTHAL:

28 I do not object to the annual report. And, of course, since I initially suggested stripping--

30 COUNCIL PRESIDENT ANDREWS:

31 No, you're correct. No, I actually don't think we had a vote on the amendment, so we
32 ought to do that first. All right, all those in favor of the amendment I made to strike the
33 amendment, the Berliner amendment, please raise your hand. That is unanimous. OK,
34 and we approved without objection the final report--the annual report requirement. So we
35 are now ready for a final vote on the bill.

37 CRYSTAL BROCKINGTON:

38 Mr. Elrich?



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1 COUNCILMEMBER ELRICH:
2 Yes.
3
4 CRYSTAL BROCKINGTON:
5 Ms. Trachtenberg?
6
7 COUNCILMEMBER TRACHTENBERG:
8 Yes.
9
10 CRYSTAL BROCKINGTON:
11 Ms. Floreen?
12
13 COUNCILMEMBER FLOREEN:
14 Yes.
15
16 CRYSTAL BROCKINGTON:
17 Mr. Leventhal?
18
19 COUNCILMEMBER LEVENTHAL:
20 Yes.
21
22 CRYSTAL BROCKINGTON:
23 Ms. Ervin?
24
25 COUNCILMEMBER ERVIN:
26 Yes.
27
28 CRYSTAL BROCKINGTON:
29 Mr. Knapp?
30
31 COUNCILMEMBER KNAPP:
32 Yes.
33
34 CRYSTAL BROCKINGTON:
35 Mr. Berliner?
36
37 COUNCIL VICE PRESIDENT BERLINER:
38 Yes.
39



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1 CRYSTAL BROCKINGTON:

2 Mr. Andrews?

3
4 COUNCIL PRESIDENT ANDREWS:

5 Yes. The bill passes 8-0. Thank you, everybody. One more bill before we break for recess.

6
7 COUNCILMEMBER KNAPP:

8 Want me to just ready, set, go?

9
10 COUNCIL PRESIDENT ANDREWS:

11 OK. All right, yeah, let's go. This is bill 7-09, Schools and Camps, Workforce Investment
12 Scholarship. The Planning, Housing, and Economic Development Committee has a
13 recommendation. I'll turn to the Chair of the Committee, Councilmember Knapp.

14
15 COUNCILMEMBER KNAPP:

16 Thank you, Mr. President. This'll be very brief. Bill 7-09, which was co-sponsored jointly by
17 myself, Councilmember Leventhal, and Councilmember Ervin would establish a Workforce
18 Investment Scholarship program administered by the Department of Economic
19 Development. The bill would create a Workforce Investment Scholarship Board to develop
20 guidelines for the award of scholarships to undergraduate students at Montgomery
21 College or the University of Shady Grove who are in degree programs that prepare the
22 students for one of the County's top 10 most needed occupations, certification to teach
23 mathematics or a science in the County public schools, or degrees in engineering,
24 mathematics, or in natural sciences. Students who receive the scholarship would be
25 required to agree to work in the County in one of the County's 10 most needed
26 occupations for the number of years the student receives the scholarship. Students who
27 do not obtain a degree or who do not meet the other conditions of the scholarship must
28 repay the scholarship. In the Committee's discussion, we agreed with the following
29 amendments--adding careers in early childhood education, deleting the Workforce
30 Investment Scholarship Board and replacing it with the existing Workforce Investment
31 Board, which we have since modified further, and then adding language to encourage
32 gender equity in careers in science, technology, engineering, mathematics, and early
33 childhood education. And there are some that--there are certain areas in which the
34 University of Maryland at College Park would also be an acceptable place for students to
35 attend. I think this is an important step forward as we continue to focus on the creation of
36 jobs in our County. But more importantly, we have a fabulous high school system and
37 elementary school system. What we need to now do is make sure that we can, in effect,
38 grow our own and keep our talent here. This is one small step toward allowing that to
39 occur. It is also something that is already heartily endorsed by the private sector in which
40 they funded a number of scholarships very similarly. And so I'm very pleased at the



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1 support of the Committee--I'm pleased with the support of the co-sponsors, the
2 Universities of Shady Grove and Montgomery College who've worked very hard with us to
3 make this happen, Department of Economic Development, and Mr. Drummer, who has
4 worked with us to make sure this is drafted appropriately. And so I thank everyone. That is
5 the Committee's report, and I ask for final passage.

6
7 COUNCIL PRESIDENT ANDREWS:

8 Thank you, Councilmember Knapp. Councilmember Ervin has a question or comment.

9
10 COUNCILMEMBER ERVIN:

11 Just a comment. I want to congratulate Councilmember Knapp on sponsoring this bill. And
12 I'm glad to see that the Committee did some work on a couple of the issues that were
13 surrounding the passage of the bill, and I'm very happy to be a co-sponsor. I'm particularly
14 encouraged by seeing early childhood added and the issue around gender when it comes
15 to girls in the sciences. So we really appreciate all your hard work. I wish we would've
16 spent as much time on this as we've spent on some other things this morning, but
17 congratulations to Councilmember Knapp.

18
19 COUNCIL PRESIDENT ANDREWS:

20 Yes, congratulations, Councilmember Knapp. And--although, we should vote first.
21 Councilmember Elrich, do you have a comment?

22
23 COUNCILMEMBER ELRICH:

24 Yeah. I just wanted to thank the sponsor for amending this to include the University of
25 Maryland. Because I thought it was important that we recognize that people do go there--
26 the Montgomery County residents.

27
28 COUNCIL PRESIDENT ANDREWS:

29 OK, we're ready for a vote, I believe, on the bill. Will the Clerk please call the roll on Bill 7-
30 09, Schools and Camps, Workforce Investment Scholarship.

31
32 CRYSTAL BROCKINGTON:

33 Mr. Elrich?

34
35 COUNCILMEMBER ELRICH:

36 Yes.

37
38 CRYSTAL BROCKINGTON:

39 Ms. Floreen?
40

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1 COUNCILMEMBER FLOREEN:
2 Yes.
3
4 CRYSTAL BROCKINGTON:
5 Mr. Leventhal?
6
7 COUNCILMEMBER LEVENTHAL:
8 Yes.
9
10 CRYSTAL BROCKINGTON:
11 Ms. Ervin?
12
13 COUNCILMEMBER ERVIN:
14 Yes.
15
16 CRYSTAL BROCKINGTON:
17 Mr. Knapp?
18
19 COUNCILMEMBER KNAPP:
20 Yes.
21
22 CRYSTAL BROCKINGTON:
23 Mr. Berliner?
24
25 COUNCIL VICE PRESIDENT BERLINER:
26 Yes.
27
28 CRYSTAL BROCKINGTON:
29 Mr. Andrews?
30
31 COUNCIL PRESIDENT ANDREWS:
32 Yes. The bill is approved 7-0. And we are recessing until--1:30? All right, 1:30.

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1



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1 COUNCIL PRESIDENT ANDREWS:

2 Good afternoon, everybody, and welcome to a public hearing at the County Council. We
3 have a public hearing on the following items--Bill 20-09, Boards, Committees, and
4 Commissions, Committee Evaluation Review Board Recommendations; Bill 21-09,
5 Boards, Committees, and Commissions Amendments; a resolution to repeal the
6 Dickerson Area Facilities Implementation Group; and a resolution to implement
7 recommendations of the committee evaluation review. Persons wishing to submit
8 additional material for the Council's consideration for any of these items should do so
9 before the close of business Thursday, June 18, 2009. A Management and Fiscal Policy
10 Committee worksession is tentatively scheduled for Monday, June 22, 2009, at 2 P.M.
11 Please call 240-777-7900 for information. If you are speaking this afternoon, please
12 remember to introduce yourself at the beginning and to speak directly into the
13 microphone, and I will call people up in two groups, and the first group will be Robert
14 Goldberg, speaking for the Rustic Roads Advisory Committee; Billy Willard, speaking for
15 the Montgomery County Agricultural Preservation Advisory Board; Wade Butler, speaking
16 for the Montgomery County Agricultural Advisory Committee; Amina Makhdoom, speaking
17 for the Committee on Hate Violence; Mark Pharaoh, speaking for the East County
18 Recreation Advisory Board; and Joy Rafey, speaking for the Down County Recreation
19 Advisory Board. Each of you will have up to 3 minutes to speak, and when the yellow light
20 goes on in front of you, that means you have 30 seconds to go, and red light means
21 please conclude if you're still speaking and then stay up at the table, please. There may
22 be questions for you or your colleagues. Our first speaker will be Mr. Goldberg.

23
24 ROBERT GOLDBERG:

25 Good afternoon. Councilmembers, my name is Robert Goldberg. I'm a member of the
26 Rustic Roads Advisory Committee--

27
28 COUNCIL PRESIDENT ANDREWS:

29 Mr. Goldberg, can you use the mike a little closer?

30
31 ROBERT GOLDBERG:

32 I live on Davis Mill Road in Germantown, Maryland, which is a rustic road. We, the
33 members of the Rustic Roads Advisory Committee--and we're gonna call it RRAC--it's the
34 first of the alphabet soup here--have reviewed bill number 20-09, which recommends that
35 the RRAC become a subcommittee of the Agriculture Advisory Committee, which I'll call
36 AAC. The bill also establishes the Agricultural Preservation Advisory Board, which I will
37 call APAB, as a subcommittee. We've got alphabet soup here. We believe that what is
38 most important is the County should receive the best possible input for its decisions, and
39 we've reviewed bill number 20-09 with this goal in mind. We also support the efficient use
40 of staff time and resources, and we greatly respect the time and commitment of the

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1 volunteers who serve on our committee and that of the members of the AAC and of the
2 APAB. With the above in mind, we specifically address the question, does this bill serve to
3 save staff time for any of the committees? Currently each of these 3 committees is
4 supported by a staff person who has extensive knowledge in the area of the committee's
5 interest. For our committee, Sarah Navid is the county staff person who provides technical
6 support to the committee. Because of her dedication and years of service, she has
7 developed an in-depth knowledge of roadway operations and safety standards as well as
8 subdivision design and regulations. Similarly, staff members for the AAC and the APAB
9 have invaluable background to support the efforts of their committees. Also, if RRAC were
10 to become a subcommittee of the AAC--I apologize for alphabet soup here--the same staff
11 time would still be required for our meetings and background work. On this basis, we
12 judge that there would be zero savings of staff time accomplished by the proposed
13 consolidation and rearrangement of these committees. We also note that one of the
14 farmer members of the RRAC--that's farmer, not former--acts as a liaison with the AAC,
15 providing a formal connection and staff to the committees and formally coordinate as
16 needed. Last year these connections resulted in the very productive joint meeting of the 3
17 committees to discuss tree maintenance along the roadways in the Ag Reserve. In order
18 to consider the potential for savings in staff and volunteer time, RRAC members reviewed
19 the April 2009 agendas with the 3 committees. We saw the committees review 33 unique
20 items that only 3 items reviewed both by the AAC and the APAB as follows--and I'll skip
21 some of the details. Basically there was very limited overlap, and this reflects the different
22 types of reviews and discussions that these groups customarily handle. Thus, there's little
23 redundancy. Also if the subcommittees must bring recommendations for the AAC for
24 approval, then staff and committee members will generally need to attend two meetings
25 per month rather than one. The current RRAC membership balances the interest of civic
26 groups concerned about the roads with 3 farmers, 2 representatives from civic groups--a
27 roadway engineer and a rural preservation representative.

28
29 COUNCIL PRESIDENT ANDREWS:

30 Mr. Goldberg, we'll have to read the rest of your testimony.

31
32 ROBERT GOLDBERG:

33 In summary, we the members--

34
35 COUNCIL PRESIDENT ANDREWS:

36 Go ahead. You can finish the sentence.

37
38 ROBERT GOLDBERG:

39 In summary, we, the members of the RRAC, fail to see any savings in staff or other time
40 that would be accomplished by the proposed bill. Again our interest is ensuring that



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1 county officials are able to make the best possible decisions by having the best possible
2 advice and recommendations from us and its other committees.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you.

6
7 ROBERT GOLDBERG:

8 I'm speaking on behalf of the entire committee.

9
10 COUNCIL PRESIDENT ANDREWS:

11 Thank you. Our next speaker will be Mr. Willard.

12
13 BILLY WILLARD:

14 Good afternoon. My name is Billy Willard. I'm a farmer from Poolesville--a farmer and farm
15 supply dealer from Poolesville. I'd like to first thank the Council for all their support of ag
16 preservation over the years. We have a very, very valuable program, ag preservation, and
17 we also get tremendous support from the Council in terms of supporting the industry of
18 agriculture, which is important also. If we didn't have good, viable, profitable agriculture,
19 preserving the ground, it would not be--very, very important. I'm representing the Ag
20 Preservation Board, as was mentioned. Our board certainly understands that during these
21 tough economic times, it's important to maximize the efficiency and the delivery of the
22 government programs and initiatives as the county does supply to our groups. While on
23 the surface, the recommendation to merge boards, Ag Preservation and Ag Advisory, to a
24 new group may appear to be logical; however, after we have reviewed it and studied it, we
25 do conclude that the separate identities of these valuable boards, keeping them separate,
26 must be maintained. I've been informed by Jeremy Criss and John Zawitoski that Bill 20-9
27 may be in conflict with state law, which represents the enabling authority for the APAB. At
28 the board, we often deal with very sensitive and confidential projects which involve real
29 property transactions in conjunction with the purchase of agricultural and conservation
30 easements. Given our board is comprised of only 5 members, it creates an environment
31 which ensures the protection of confidential information. The structure for the proposed Ag
32 Preservation Board as a subcommittee will create an environment for more meetings, and
33 there is some question to how the subcommittee could function, given the confidentiality
34 of sensitive information. Clearly a subcommittee cannot make final decisions. Any
35 decision recommended by the subcommittee would have to come back for approval to the
36 full AAC committee. So this creates the need for more meetings, not fewer ones. We don't
37 see any time savings or cost savings if the subcommittee must meet and take their
38 recommendations to the full Ag Advisory Committee. So in summary, I appreciate you
39 allowing me to present, and we respectfully submit that Ag Preservation stays as a
40 separate board. Thank you.



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1 COUNCIL PRESIDENT ANDREWS:

2 OK. Thank you, Mr. Willard. Our next speaker will be Mr. Butler.

3
4 WADE BUTLER:

5 Good afternoon. Thanks for having me here today. My name's Wade Butler of Butler's
6 Orchard, and I'm Chairman of the Ag Advisory Committee, and we're testifying in
7 opposition to Bill 20-09. This bill was proposed to consolidate Ag Advisory and the other
8 boards, as you well know. The bill recommends the AAC be codified as part of the County
9 Code, since the Council Resolution number 8705 was approved in 1976 as the official
10 mechanism for creating the Ag Advisory Committee. Ag Advisory does not oppose this
11 aspect of the bill. Consolidation of these groups was proposed in 2004 as part of the
12 committee evaluation review board report, and the AAC provided written
13 recommendations to the Executive in December 10, 2004, outlining our concerns then.
14 Many of those concerns are still valid today. Joint meetings between these groups are
15 conducted periodically. On September 16 of 2008, a joint meeting between these groups--
16 the 3 groups here today--was held to discuss needs for trimming trees on rural rustic
17 roads. These groups do work well together when a common issue or concern needs to be
18 addressed, and we have had some productivity out of our joint meeting on tree trimming.
19 We are concerned that if these 3 groups are officially combined, AAC meetings will need
20 to start earlier and last longer to complete all the assignments and responsibilities of the 3
21 groups. This past April 17, we started at 7:40 P.M. and we ended at 9:30 when the
22 security officer asked us to leave the building. We have trouble getting through our
23 agenda as it is, and adding more issues would be problematic to us. We're not able to
24 complete all of our discussions on this bill that was introduced earlier in that day, so we
25 didn't get a chance to get to it that night because, as I say, we had to exit the building. Ag
26 Preservation and Rural Rustic Roads have--if they become subcommittees under Ag
27 Advisory, the subcommittee members will need to meet and formulate recommendations
28 that will be presented to the full Ag Advisory Committee. These subcommittee meetings
29 could actually increase the number of times the group meets, which is contrary to the
30 intent of the bill. Ag Advisory has 15 members currently, and we usually have between 20
31 and 25 people attending our meetings. There are times the 15-member Ag Advisory can
32 be challenging to manage and keep the meetings to a time--and to keep the meetings on
33 time can be difficult. Increasing the Ag Advisory membership to 19 will make managing
34 these meetings more challenging and difficult. Ag Advisory currently has assigned two
35 subcommittees that conduct additional meetings to formulate recommendations to be
36 presented during the next regular meeting. If this bill is approved, the number of
37 subcommittee meetings could become problematic with respect to selecting dates, times,
38 and places for all representatives to attend and participate. In view of these comments,
39 the AAC questions as to whether Bill 20-09 will actually result in fewer meetings for these



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1 groups and whether there will be any cost savings. Thank you for the opportunity to
2 address you here today.

3
4 COUNCIL PRESIDENT ANDREWS:

5 Thank you, Mr. Butler. Our next speaker will be Ms. Makhdoom.

6
7 AMINA MAKHDOOM:

8 Thank you. Thank you for allowing me to testify here today. My name is Amina
9 Makhdoom, and I'm currently the Chair of the Committee on Hate Violence, and I'm here
10 to testify as to why I do not believe that there will be a significant cost savings by merging
11 the Committee on Hate Violence with the Committee on Ethnic Affairs into a Multicultural
12 Advisory Committee. The Committee on Hate Violence is made up of 15 members with an
13 extensive background in hate violence, mediation, violence prevention, education, media
14 relations, religious studies, gender studies, and dialogue. The specified group of skills and
15 knowledge make this committee an asset to the county, and the use of these skills and
16 knowledge to prevent hate crimes actually is a cost savings to the county. The reduction
17 of occurrences of hate violence, which would otherwise necessitate additional county
18 expenditures in terms of police response, victim compensation, and public relations, is the
19 focus of our committee. This is best done if COHV, with its specified vision, mission, skills,
20 and knowledge is allowed to provide a dedicated focus to the very important issue of hate
21 violence. While I'm sure some of this work would continue under a broader committee
22 name, the focus of hate violence and the specific skills and knowledge of the members
23 would be lost, thus making the work that this committee does less effective. Hate crimes is
24 an ongoing problem in our county. There have been a number of hate incidents in the past
25 years, including the displays of nooses, the daubing of swastikas, and the harassment of
26 county residents. We're currently facing a new promotion of hate violence through fliers
27 being left on county residents' doors with hate speech. The Southern Poverty Law Center
28 estimates that there are 13 hate groups working in Maryland, two of which are in
29 Montgomery County. With this past election and the economic issues that we are facing,
30 hate violence is currently increasing and needs to be monitored and addressed
31 proactively. Our committee is working on a number of projects to ensure that the residents
32 of Montgomery County are educated on the issues and are not falling prey to inciting
33 speech without the facts. We believe that this education will actually prevent hate violence
34 and hate crimes from occurring. In closing, our committee has an impressive record of
35 accomplishments, and we have a packed agenda for projects that we're currently
36 committed to and want to do in the near future. Merging the COHV with a broader
37 multicultural affairs committee would severely dilute our message, our skill set, and our
38 effectiveness. I look forward to working with you all on the best solution for Montgomery
39 County residents. Thank you very much for your time.



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1 COUNCIL PRESIDENT ANDREWS:

2 Thank you. Our next speaker is Mr. Pharaoh.

3
4 MARK PHARAOH:

5 Hi. I'm Mark Pharaoh from the--I'm the Chair at East County Recreation Advisory Board.
6 We don't support the bill. We don't think there's gonna be a lot of savings. If you combine
7 these county citizens and the Recreation Advisory Board, you still need the same support--
8 -you know, support from Recreation and Parks. The staff would still have to be at the
9 Citizens Advisory Board meetings or at the Recreation Advisory meetings, so that would
10 probably be a wash. Plus you'd be losing a real strong advocate for recreation and parks.
11 It would really get diluted a lot by being in the bigger Citizens' Advisory Board, and they
12 have a lot more other projects that they have to worry about. As far as staff supporting
13 other events--I've been to a lot of public forums. I've been to Good Hope Public Forum,
14 the Trolley Museum, White Oak, and it always seems that most of the public forums I'm at,
15 there's more staff than actually public at them. I mean, that's--if you're looking at how
16 much wasted staff time there is, I mean, that's part of a problem there. Then you have--I
17 was at the PHED committee meeting, when they were discussing the OLO report, and I
18 couldn't believe how much staff was at that in the middle of the day--I mean, from Parks
19 and Recreation. It was unbelievable, and you're talking about getting rid of, you know, one
20 or two Recreation people and one Parks person for a couple of hours one night a month,
21 and you might have 40 people show up at a PHED meeting in the middle of the day from
22 Recreation and Parks. They're not needed there for testimony or anything, you know. Just
23 something to look--if you're gonna try and save some money, I think there are some better
24 places than to look at these committees and take one or two staff people away for a
25 couple of hours once a month. Thank you.

26
27 COUNCIL PRESIDENT ANDREWS:

28 Thank you, Mr. Pharaoh. Our final speaker on this panel is Joy Rafey.

29
30 JOY RAFEY:

31 Hi. Thank you. I'm Joy Rafey and I'm with the Down County Recreation Advisory Board--
32 just newly seated on that board, in fact. And our President--our board Chair has written a
33 statement that I'll read for you. "As a group of volunteers working to enhance parks and
34 recreation opportunities in our community, the Down County Recreation Advisory Board
35 appreciates the opportunity to testify today. The Down County Board represents the
36 communities of Potomac, Bethesda, Chevy Chase, and East Silver Spring. Through the
37 area recreation boards, the County Council makes an affirmative statement about the
38 priority of parks and recreation in every community throughout the county. We do
39 recognize and wish to stress that as much as we are advisors to the Council and the
40 Executive, we are also a board of your design, and we greatly respect the Council's right

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1 and obligation to consider what structures best serve the county's collective good. The
2 members of the Down County Board believe that this board enhances the voice of Parks
3 and Recreation in our area. We are concerned that eliminating the boards would dilute the
4 voice on these priorities. Because of the boards, we have unique opportunities to highlight
5 Parks and Recreation priorities through our annual meetings with the County Executive
6 and at Council public hearings. We co-host CIP forums with the Planning Board, rotate
7 meetings to visit with specific stakeholders, and, as necessary, we hold special meetings
8 in communities that are wrestling with specific issues. We are concerned that most of
9 these unique input opportunities would be lost or diluted if the area boards are eliminated.
10 The regional Citizens Advisory boards handle a very broad set of issues--essentially
11 everything except the purview of the recreation boards. If the recreation boards are
12 consolidated with the citizen boards, we are concerned Parks and Recreation would be
13 just one of many issues deliberated. Such issues may or may not be highlighted with
14 elected officials and when they are, they would be included along with non-recreation
15 matters. We're also concerned about the staff support under the proposed consolidation.
16 Parks and Recreation staff provide essential input to the board's work. If these individuals
17 provide the same level of support following consolidation, there would be no reduction in
18 staff time. On the other hand, if staff provided less support, we are concerned that Parks
19 and Recreation issues would be further diminished. As the budget is debated, we would
20 respectfully ask what value we, as a community, wish to place on opportunities for public
21 input. The Down County Recreation Advisory Board has worked on many issues in recent
22 years with tangible results, including the Scotland Center Renovation, the Wisconsin
23 Place--in North Bethesda--Recreation Center development, Capital Crescent Trail's Safety
24 and Access, Park Buildings, and the Pauline Betts Addie Tennis Center, as well as
25 public/private partnerships. As volunteers in a community of nearly one million people, we
26 believe the area advisory boards provide an enhanced voice on many quality-of-life issues
27 that make Montgomery County such a wonderful place to live. Thank you."

28
29 COUNCIL PRESIDENT ANDREWS:

30 Thank you, Ms. Rafey. There is a question or comment from Councilmember Ervin.

31
32 COUNCILMEMBER ERVIN:

33 Thank you very much. Thank you all for your service to the community. It's very much
34 appreciated. I actually wanted to ask a question of Amina Makhdoom from the Committee
35 on Hate Violence. I was really interested in what you had to say about how many groups
36 exist in the state of Maryland. How many did you say?

37
38 AMINA MAKHDOOM:

39 13, according to the Southern Poverty Law Center, and 2 in Montgomery County.
40



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1 COUNCILMEMBER ERVIN:

2 So, what does the Committee on Hate Violence do to educate the public about these
3 groups that exist in the county?
4

5 AMINA MAKHDOOM:

6 Our mission is divided into two. One is to proactively keep hate crimes from occurring, and
7 the way that we do that is we put together educational materials for county residents
8 around specific hate crimes that are occurring, so not just hate groups that are operating
9 in the county, but trends that we're seeing. For example, lately there's been a lot of
10 swastikas being painted onto buildings, on the side of buildings, which, we are getting
11 information from the police department, could be gang-related. So we're trying to work on
12 a program with the schools to help children understand some of the Internet bullying and
13 the Internet origins, if you will, of some of these gang signs and what it means to put them
14 out on the buildings. So we work with different groups, depending on which projects that
15 we can get to with the school, and then we have press releases, fliers that we put out,
16 those types of things.
17

18 COUNCILMEMBER ERVIN:

19 So do you work with the Human Rights Commission?
20

21 AMINA MAKHDOOM:

22 We do.
23

24 COUNCILMEMBER ERVIN:

25 OK. Great.
26

27 AMINA MAKHDOOM:

28 We're partnering with them right now on an immigration project.
29

30 COUNCILMEMBER ERVIN:

31 OK. Great. Thanks. I didn't know much about what you did, so it's good that you're here
32 giving your testimony. Thanks.
33

34 AMINA MAKHDOOM:

35 Thank you.
36

37 COUNCIL PRESIDENT ANDREWS:

38 Thank you, Councilmember Ervin. Mr. Goldberg, Mr. Willard, Mr. Butler, Ms. Makhdoom,
39 Mr. Pharaoh, and Ms. Rafey, thank you all very much for your testimony. Our next panel,
40 which will be our final panel for this afternoon, will be Paul Lofgren and Andrew Schulder,



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1 representing the Mid-County Recreation Advisory Board; John Lourie, representing the
2 Silver Spring Urban District Advisory Committee; Suzanne Weiss, representing the Cable
3 Communications Advisory Committee; Jane Redicker, representing the Greater Silver
4 Spring Chamber of Commerce; and Richard Hill, representing the Dickerson Area
5 Facilities Implementation Group. Again, remember, please, to press the button in front of
6 you to turn the mike on, introduce yourself. When the yellow light goes on, flashing, you
7 have 30 seconds to go. Red light means please conclude your sentence. And it looks like
8 Paul--Mr. Lofgren and Mr. Schulder are going to split their time? OK. Everybody has--
9 you'll have 3 minutes combined. OK. Please begin.

10
11 PAUL LOFGREN:

12 Good afternoon, Councilmembers. My name is Paul Lofgren, and I'm with the Mid-County
13 Advisory Board. Arquilla Ridgell has asked me to testify on her behalf and the Council's
14 behalf on the 5 reasons why we support the continuation of the local regional advisory
15 boards for the following 5 reasons. There's no comparison between resources and money
16 which translates into savings, and therefore no savings exists within the proposed
17 consolidation. Number 2, volunteer recreation advisory boards saves the county money.
18 Number 3, regional advisory boards enables a positive and supportive connection
19 between local county citizens, Department of Parks, appointed and elected county
20 officials. Number 4, regional boards enable county officials to hear from county citizens on
21 regional issues. For county councils to consider reducing the number of positions on paid
22 volunteer boards which may yield a more significant cost savings to the county budget.
23 There's no clear comparison between resources and money. The amount of resources
24 and hours donated by county volunteers would need to be replaced by county staff hours.
25 A 3-member subcommittee within the County Advisory Board would not have the
26 resources that currently exist for 4 area recreational advisory board members currently
27 staffed by 36 to 40 volunteer board members. The 36 to 40 volunteers on 4 advisory
28 boards automatically equals a greater cost savings because 36 volunteers times 36 hours
29 per year plus resources equals a greater savings than the alleged 100+ staff hours saved
30 in the county board's budget. Volunteer recreational advisory boards saves the county
31 money and elected county officials' money by serving as a resource point of contact in
32 information for local county residents. County board members provide valuable resources,
33 information, and support by conducting research, responding to correspondence in issues
34 from concerned citizens. Just recently Matthew Henson Trail just opened up, and I saw a
35 number of you there. Just before it opened up, because of the delays of the weather, a
36 gentleman by the name of Stanley Way was giving me and us up-to-the-minute weather
37 delays of why all the water was being backed up because of the debris in it and trees that
38 were being felled, and he was giving us daily updates on that. It was amazing. And there's
39 this other gentleman, Joe Fritsch, that's on our committee, was riding his bike every day,
40 giving us complete updates. And I'm sorry, I'm almost out of my time. I'm sorry. We also



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1 believe another--reducing the number of paid volunteer boards, which may yield a
2 significant cost savings, is decreasing the number of volunteer positions on paid advisory
3 boards may save a significant amount of money for the county budget because we're all
4 free on our board here. I'm sorry for taking up enough time. Thank you for my time.

5
6 COUNCIL PRESIDENT ANDREWS:

7 You're welcome, and all right. Our next speaker will be Mr. Lourie.
8

9 JOHN LOURIE:

10 President Andrews, members of the Council, my name is John Lourie. I'm the Chair of the
11 Silver Spring Urban District Advisory Committee. I'm asking the Council to oppose Bill 21-
12 09 as currently written, which provides for the elimination of the Silver Spring Urban
13 District Advisory Committee. The Silver Spring Urban District provides enhanced county
14 services within the Silver Spring central business district and is funded by taxes collected
15 from Silver Spring property and business owners. These taxes include the urban district
16 tax, optional method developer fees, and parking lot district fees. According to the County
17 Code, each urban district must have an advisory committee or an urban district
18 corporation of board--corporation board of directors whose responsibility is to advise the
19 county government on all aspects of program, management, and finances of the urban
20 district. Proposed bill 21-09, which would provide for the elimination of the Silver Spring
21 Urban District Advisory Committee, depriving businesses and property owners within the
22 Silver Spring urban district of representation and participation in how their tax dollars are
23 spent and the enhanced services they fund. The proposed bill, 21-09, singles out the
24 Silver Spring Urban District for elimination but makes no mention of our sister committees--
25 the Bethesda Urban Partnership or the Wheaton Urban District Advisory Committee. Why
26 should Silver Spring's businesses and property owners be provided with less
27 representation than these jurisdictions? What message does this send to businesses
28 planning to move to Silver Spring or property owners planning to invest in Silver Spring?
29 It's a less-valued community? Look elsewhere? This bill proposes the Silver Spring
30 Citizens Advisory Board supplant the Urban District Committee but without business
31 representation. The Silver Spring Citizens' Advisory Board represents the Silver Spring
32 residential community, and its mandate is much too broad to focus on urban district
33 issues. The CERB report of July 2004 does not call for the elimination of the Silver Spring
34 Urban District Committee but instead recommended that its membership be increased to
35 its current 11 members. The Silver Spring Urban District Advisory Committee was not
36 briefed nor notified of the proposed bill 21-09. We understand that its goal is to provide
37 cost savings by reducing county staff hours of county employees who support the
38 committee. We have not received any supporting information from county staff indicating
39 the amount of savings that would be realized. Darian Unger, Chair of the Silver Spring
40 Citizens Advisory Board, has submitted a letter in opposition of this bill and writes, "The



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1 county benefits tremendously from the input, learning, analysis, and active participation of
2 the many volunteer committee members who represent their communities or
3 constituencies. The people benefit from the face-to-face encounters, presentations, and
4 information distributed by county officials. These benefits far outweigh the minor costs of
5 administrative support and occasional visits or presentations by public officials.

6
7 COUNCIL PRESIDENT ANDREWS:

8 Thanks, Mr. Lourie, and we can read the rest of your testimony.
9

10 JOHN LOURIE:

11 Thank you.
12

13 COUNCIL PRESIDENT ANDREWS:

14 Thank you. Our next speaker will be Suzanne Weiss.
15

16 SUZANNE WEISS:

17 Hi. I'm Suzanne Weiss. Please do not eliminate or reduce county boards, committees, or
18 commissions. The value they can add far exceeds any related costs and provides many
19 county residents with a connection to each other and to MoCo that would otherwise never
20 experience. How does your information, as a Councilmember, come--from your staff,
21 family, acquaintances? Someone either seeks you out or casually mentions an issue, a
22 question, a concern. With this input, your office then investigates, and the potential result
23 is a better solution for our county. County residents on these committees give up their
24 time to share information and actively compile questions and solutions. They generally
25 represent a diverse group of ages, experience, geography, and lifestyles. How do you
26 replicate this information? How do you establish a price? When vacancies are advertised,
27 we are usually deluged with qualified applicants willing to devote their time and energies
28 to support our county. In 2004, the CERB actually found that this was a large, well-run
29 system that provides significant benefits to the county as a whole and is supported by
30 1,200 county residents who volunteer to serve and in many instances provide the
31 equivalent of services performed by paid staff in other jurisdictions. The Cable
32 Communications Advisory Committee, which I have had the pleasure of chairing for the
33 past two years, consists of some dedicated citizens who devote their efforts to making
34 communications better within our county. Just last year, our esteemed attorney members
35 completed a consumer cable brochure identifying rights and resources, which was
36 disseminated by our County Executive and supported by our Council. And the cost? I
37 believe committee costs are being estimated at a half a day's administrative time. Last
38 year, the CCAC interviewed a potential cable franchise operator, researched the proposed
39 agreement, and forwarded many pertinent financial, logistical, and practical questions to
40 be covered during the review process, still at only a half day admin person cost. Last year,



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1 the CCAC worked towards highlighting the customer service deficiencies that violated a
2 cable franchise agreement. We successfully initiated a press release, and the resulting
3 publicity may have provided an impetus to significantly improve their compliance more
4 quickly. It certainly served to help county residents determine how they would meet their
5 communication needs. And we still cost about half a day's administrative support person's
6 time. The CCAC has worked with the cable office, the county IT advisor, the PEG network
7 cable providers, and other county departments and brought forward potential issues, such
8 as the pitfalls in bundling services, E911 concerns, and the conversion to digital TV. Just
9 today, both DTV and service bundling are in the news again, and CCAC is hard at work.
10 So while we all see the need to support our county budget, eliminating the efforts of our
11 volunteers does not make economic sense.

12
13 COUNCIL PRESIDENT ANDREWS:

14 Thank you, Ms. Weiss. Our next speaker will be Jane Redicker.

15
16 JANE REDICKER:

17 President Andrews, members of the Council, good afternoon. My name is Jane Redicker.
18 I'm President of the Greater Silver Spring Chamber of Commerce. We represent more
19 than 400 businesses that did not want to lose their voice on matters directly relating to the
20 Silver Spring urban district because those matters directly affect them. I'm here to express
21 the Chamber's strong opposition to the portions of bill 21-09 that would eliminate the
22 Silver Spring Urban District Advisory Committee and merge its functions into the Silver
23 Spring Citizens Advisory Board. The commissions, compositions, and jurisdictions of
24 these two groups are distinctly different. The Urban District Advisory Committee was
25 originally established to provide a mechanism by which the stakeholders--those who pay
26 the cost--could establish and control increased level of maintenance and thereby the cost
27 of that service that was desired by the newly created urban district. The Chamber has two
28 representatives on this board. Its jurisdiction is limited to the urban district, and it meets
29 only once per month. The Silver Spring Citizens Advisory Board represents a much
30 broader geographic area, from Rock Creek Park on the west to Prince George's County
31 on the east, from I-495 on the north to the D.C. line on the south. It includes the city of
32 Takoma Park and all of Four Corners. The members are exclusively residents from this
33 broad neighborhood area. Because the Urban District Advisory Committee represents
34 primarily those businesses that provide the funding for the urban district, the committee is
35 essential to giving these stakeholders input into how their money is spent in the urban
36 district and how much of it is spent. Eliminating this committee would take control of these
37 decisions out of the hands of those that have agreed to be taxed at a higher level in order
38 to realize a higher level of service. That agreement was made with the understanding that
39 the decision on the level of maintenance and the cost was in their hands. This bill would
40 breach that agreement. We've heard that there's a perception that these groups are



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1 redundant because they often come before this Council with the same messages on
2 matters that affect the urban district. We would argue that this is a good thing, that like
3 opinions from these two groups should be considered by the Council as strong support or
4 opposition from both the business community and the broader residential community.
5 Indeed, the Citizens Advisory Board should appropriately express opinions about urban
6 district matters because the urban district is part of the jurisdiction of that board. However,
7 the urban district is only a part of that area represented. Perhaps because it bears the
8 name "Silver Spring" in its name, the Citizens Advisory Board has too narrowly defined its
9 role. Perhaps the community it represents would be better served if the group were
10 renamed to reflect the area its members represent, something like Down County or
11 Southeast County. This change would be more in line with the other areas of the county--
12 the Western, Mid-County, or East County Citizens Advisory Boards. If reducing staff time
13 and costs is associated with the meetings for these groups is the goal, the Chamber and
14 its representatives on the Urban District Advisory Board would be pleased to work with the
15 Council to identify ways that this could be achieved. On behalf of the Chamber, we urge
16 you to follow the recommendations of the 2004 CERB report and allow the Urban District
17 Advisory Committee to continue its work representing the interests of those who provide
18 funding for the urban district. We thank you for your consideration.

19
20 COUNCIL PRESIDENT ANDREWS:

21 Thank you, Ms. Redicker. And our final speaker on this panel is Richard Hill.

22
23 RICHARD HILL:

24 Good afternoon, Council. My name is Richard Hill. I am the Chair of the Dickerson Area
25 Facilities Implementation Group, hereafter FIG, which Council Bill 21-09 proposes to
26 eliminate, transferring FIG's responsibilities to the Solid Waste Advisory Committee,
27 hereafter SWAC. I advise against that action and am joined in that recommendation by
28 the Dickerson Community Association, the Sugarloaf Citizens Association, and by SWAC
29 itself. I met last weekend with SWAC to describe the work that we do. We are not just
30 advisory. We have solid work products, revising, reviewing environmental and engineering
31 studies. SWAC is really advisory. They agreed that the two groups, the mission and the
32 work of the two groups, is so fundamentally different that the only way consolidation would
33 work at all is if they created a separate task force which would continue all the expenses
34 and essentially continue FIG's current membership. There could be some savings in the
35 sense of budget for advertising for positions or meetings. And FIG really has to continue.
36 The FIG purpose is to address community and environmental issues and concerns
37 associated with a solid waste area. We are the county's first line of defense for the
38 recognition of environmental impacts from the facilities that could lead to very serious
39 liabilities. A special concern to FIG is ensuring that the county's operations do not
40 adversely affect the U.S. EPA-designated sole-source aquifer that meets all our water

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1 needs. FIG has participated in ongoing studies of solid-waste-facility-generated air and
2 non-air contaminants in the environment. By non-air, I mean milk, grass, fish, fish tissue,
3 silt. These studies constitute a longitudinal assessment of the presence of contaminants
4 such as hydrochloric and sulfuric acids, compounds of barium, chromium, copper, lead,
5 manganese, mercury, nickel, zinc, and more. The importance of monitoring these hazards
6 and liabilities is critical to an area upon which the county has already imposed some of its
7 most environmentally intrusive land uses. These include the incinerator, where all the
8 county's waste is brought; the compost facility, where all the county's leaves, grass, yard
9 waste is brought; and one of the largest coal-fired power plants in the state, which is co-
10 located with the county facilities in Dickerson, including their dump site for ash disposal.
11 Environmental concerns with such facilities, including the newly described scrubbers,
12 were highlighted by the recent coal ash storage accidents that TV power plants and the
13 Washington "Post" article which I've attached to the written testimony. I believe a lot of this
14 work depends upon the environmental background, knowledge, and experience of the
15 current FIG members. I think that would be lost if it went to SWAC. I thank you for your
16 time.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Thank you, Mr. Hill, and thank you all. I know that Mr. Schulder came out this afternoon,
20 took time out of his schedule, too, and I am curious, Mr. Schulder, what you wanted to
21 say, so I want to give you a minute or two to say that.

22
23 ANDREW SCHULDER:

24 Hi. My name is Andrew Schulder, and I'm a member of the Mid-County Recreation
25 Advisory Board, and I just wanted to say that it would save the county a lot to have
26 volunteer boards which is a lot better, I think, because having volunteer boards and
27 regional boards enable county officials to hear from the county citizens on regional issues.
28 Also, you know, having volunteers enables me to do my job, which is to go into the rec
29 centers and see which things need to be maintained, whether it's vending machines, or
30 some of the centers need computers, or they need more air conditioning. So having basic
31 improvements to the infrastructure of the rec centers is just very important and also just
32 having things, you know, whether or not it's just, you know, good air conditioning or
33 accessible restrooms is just very important. Thank you very much.

34
35 COUNCIL PRESIDENT ANDREWS:

36 Thank you, Mr. Schulder, and thank you all very much for your service on the boards and
37 commissions and for coming out today. All right, that concludes our public hearing, and
38 we're now going to have a briefing on the Germantown sector plan, I believe. I think we're
39 set to go.



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1 JOHN ROBINSON:

2 Good afternoon. We'll wait for the return of your colleagues.

4 COUNCIL PRESIDENT ANDREWS:

5 Good afternoon, everybody, and welcome back for our briefing on the Germantown plan.
6 We have about half an hour or so scheduled for this, and we have a public hearing tonight
7 on the proposed Germantown master plan revisions. So I will ask Marlene Michaelson,
8 who's our staffer on this--a very able one, too--if she has any opening comments, and
9 then I'll turn to--

11 MARLENE MICHAELSON:

12 No, I'm just going to turn it over to them.

14 COUNCIL PRESIDENT ANDREWS:

15 OK. Good afternoon.

17 JOHN ROBINSON:

18 Good afternoon, Mr. President and Councilmembers. Chairman Hanson sends his
19 regrets, asked me to read a short statement, which is that we want to show Germantown
20 not as how the people coming to work today might experience it but how the people in the
21 future will live, work, play, and shop in Germantown. To that end, we have our
22 presentation in two sections. The first will be a series of slides that Sue Edwards will
23 present, giving a little background both on the plan and some of its details, and then we're
24 fortunate, our video is up, so we'll be able to have a flyover to give you some feeling for
25 how Germantown might look when the plan reaches build-out in 20 to 30 years.

27 COUNCIL PRESIDENT ANDREWS:

28 Before we do our virtual flyover. OK.

30 SUE EDWARDS:

31 With narration from Royce Hanson.

33 COUNCIL PRESIDENT ANDREWS:

34 Even better.

36 SUE EDWARDS:

37 He's our James Earl Jones, you know?

39 COUNCIL PRESIDENT ANDREWS:

40 Has that deep voice.



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1 SUE EDWARDS:

2 Thank you, Councilmembers. I'm Sue Edwards. I'm the lead planner on the Germantown
3 plan, and for the sole 11 years of my career at Park and Planning, I have been the
4 Germantown person, so this is all coming together for me. OK, Germantown of the future
5 is much different than Germantown today, and that's not really Germantown today. That's
6 Germantown 2003. But the community has been characterized with low-rise buildings,
7 surface parking lots, wide roads, treeless streets, and few pedestrians. Even people who
8 live and work in Germantown don't always appreciate what makes Germantown unique.
9 This is an old photo of the Cider Barrel Historic Site when it was operating and very
10 popular along 355. The Germantown historic district, both the MARC station house and
11 some of the more representative historic buildings. The civic uses, like BlackRock Center
12 for the Arts, shown here; the town commons, park in the front. Also the adjoining library.
13 And a growing town center business district. This Germantown plan is part of the planning
14 work program, which covers White Flint, Twinbrook, Shady Grove, the Gaithersburg West
15 master plan, and Germantown. The sector plan area is shown here in blue. It covers
16 roughly 2,400 acres of the mostly 11,000 acres that the 1989 Germantown master plan
17 addressed. Employment and mixed use is the focus of this sector plan because job
18 growth has not kept pace with housing and population. The Corridor Cities Transitway
19 forms the spine of where new mixed-use development will take place, and the plan
20 envisions Germantown as the corridor city described in the 1964 general plan and the
21 1993 general plan refinement. We estimate that Germantown's population will increase
22 from roughly 80,000 people today in 2005 to approximately 97,000 population in 2030.
23 The sector plan will create approximately 45,000 new jobs and 9,000 new housing units
24 than exist today. The Corridor Cities Transitway, which is shown here in this rendering as
25 going down the median of Century Boulevard, is an essential feature of Germantown's
26 evolution. Germantown is a strategic business location for the county and is linked with
27 Montgomery College Germantown Campus. Holy Cross Hospital has proposed to locate
28 on the college campus as the lead tenant of the business park associated with the
29 college. In the sector plan, this town center grows bigger and taller to provide the options,
30 amenities, and activity of a thriving downtown. Germantown is also known as the
31 Upcounty Cultural Center. Sustainable development practices in Germantown will protect
32 valuable environmental resources such as the Stream Valleys, the Germantown Bog,
33 Upland Forest, while also adding tree canopy, attention to energy conservation, and green
34 roots to protect water quality. In the 1966 Germantown plan, we had a space-age-type
35 vision for Germantown in the future. The town center, as it's built today, sets the beginning
36 for the next vision for Germantown. Royce Hanson will now narrate this overview of the
37 sector plan's vision for Germantown. So...escape and... and... Take it away, Royce.

38

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1 ROYCE HANSON:

2 ...vision... of Germantown's future starting with Century Boulevard. The life of the town
3 center is along Century Boulevard. Buildings framing this street contain the offices, shops,
4 and housing of downtown Germantown. Wide sidewalks, outdoor cafes, restaurants,
5 shopping, and gathering places invite people to spend time in Germantown. The civic
6 heart of Germantown is anchored by the town commons park, BlackRock Center for the
7 Arts, and the new library. And the urban park, with water features, environmental
8 educational elements, and walking paths. Continuing along Century Boulevard
9 approaching the town center transit station, workforce housing lines the street of the
10 public safety complex. Other transit stations in the first phase include Mannequin on the
11 north end and Dorsey Mill in the Milestone district. Each transit station has a civic
12 gathering plaza adjoining the transit station. The town center transit center and adjoining
13 blocks have offices, day care, and other services, restaurants, and high-rise dwellings of
14 up to 15 stories. The transit station is shown here as a light rail station with transit vehicles
15 using dedicated lanes in the median of Century Boulevard. It may, of course, be bus rapid
16 transit instead of light rail. Commercial buildings on adjoining blocks, as Century
17 Boulevard curves to the north, have direct access to the transit station along tree-lined
18 streets. Infill development adds multi-family housing suitable for families as well as older
19 people, to create a mixed use. Approaching the Cloverleaf Station, the density and
20 character transitions to a business district, midrise buildings that are 8 to 10 stories
21 adjacent to 270. The plan vision is supported by use of mixed-use zones, urban design
22 guidelines, and a staging plan that implements the plan's basic elements of increasing
23 employment, providing mixed land uses at transit locations, strengthening the town center,
24 enhancing community identity, and creating sustainable development opportunities.

25
26 COUNCILMEMBER KNAPP:

27 For an animated short for an Oscar for next year.

28
29 COUNCIL PRESIDENT ANDREWS:

30 All right. Did you have anything to add?

31
32 ROYCE HANSON:

33 We're at your disposal.

34
35 COUNCIL PRESIDENT ANDREWS:

36 OK. All right. Thank you very much for the presentation. Are there any questions,
37 comments? Councilmember Knapp? No? OK.



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1 COUNCILMEMBER KNAPP:

2 Well, the only point I would raise is we have gotten some letters. We've gotten some
3 letters to the Council concerned that we were going to make decisions on whether or not
4 the Holy Cross Hospital would be located at the Montgomery College site, and we're not
5 doing any of those things today, and we won't actually make a decision on whether or not
6 Holy Cross is located there or not. That's a state function. All we'll do is look at the zoning
7 in that area. So I just wanted to put that clarification out there because there is a
8 misconception on the part of some in the community. And when is our first worksession?
9

10 UNKNOWN SPEAKER:

11 I believe June 8 for the committee.
12

13 COUNCILMEMBER KNAPP:

14 OK. so we'll have a public hearing tonight, and the committee will start June 8, and so we
15 welcome everyone's input, public and Councilmembers, and anybody else that feels
16 compelled to let us know what they think on this. It'll be a fun summer.
17

18 COUNCIL PRESIDENT ANDREWS:

19 Thank you. Yes, we have a public hearing tonight on this. 24 speakers scheduled, and
20 then as Councilmember Knapp said, June 9 worksession? 8th? June 8 worksession in the
21 PHED committee. So there are no other questions or comments. Thank you.
22

23 COUNCILMEMBER KNAPP:

24 I would just note, though, when they showed the picture of Corridor Cities, they showed it
25 as two buses. It could also be light rail, as the Chair indicated in his discussion. So I just
26 wanted to make that clarification, too.
27

28 MARLENE MICHAELSON:

29 Councilmembers may want to save the master plans for tonight's hearing.
30

31 COUNCIL PRESIDENT ANDREWS:

32 Yes. Good suggestion. Just keep them down here for the public hearing, and we'll be
33 starting to read this as we emerge from the budget, so I think that's our next focus will be
34 a lot of the master plans. Thank you for giving us a head start. We're not scheduled to
35 start till 2:45 on the afternoon session, and is there anybody we need to wait for, or can
36 we--is there anybody that we need here who's not here? Uh-huh. Well...yeah. Let's see.
37 2:45. All right, I think we should wait 10 minutes, so we'll start back promptly at 2:45.
38



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1 COUNCIL PRESIDENT ANDREWS:

2 Good afternoon again, everybody. We're going to reconvene for our afternoon
3 worksession. We have 3 items before us which are--were deferred from other days. We
4 have the Council on Executive Grants. We have the CIP amendment on cost sharing on
5 community grant state match projects, and we have discussion of the housing initiative
6 fund resources rental assistance subsidies. So we're gonna begin with the Council on
7 Executive Grants. We have representatives here from the Executive branch. We have
8 Peggy Fitzgerald-Bare, who is our grants manager, does a great job in coordinating this
9 and working with our Grants Advisory Panel, which we want to say thank you to very
10 publicly. I don't know if we have members of the Grants Advisory Panel in the room today,
11 but if you are, please stand up. Please take our thanks back to your colleagues. I think we
12 had 35 members or thereabouts, people who served on this advisory panel. It might have
13 been even more. Was it--

14
15 PEGGY FITZGERALD-BARE:

16 31.

17
18 COUNCIL PRESIDENT ANDREWS:

19 31. OK. And they worked very hard over the past few months to review the grant, the
20 nearly 200 grant applications, and to give us their best advice on them and on behalf of
21 the Council, I thank you very much, everyone who served on that for that good work. We
22 appreciate the many hours that were put in and the careful attention that was given to
23 each of the requests. I'll turn to Ms. Fitzgerald-Bare and see if she has any comments
24 about the packet.

25
26 PEGGY FITZGERALD-BARE:

27 Yes. Thank you very much. We are here to review the Council and County Executive
28 recommended community grants. As the Council President said and Councilmembers
29 know, the Council has appointed a Community Grants Advisory Group to review the 197
30 Council grant applications that we received. These 31 members spent an incredible
31 amount of time, energy, and commitment. I totaled the number of collective hours that
32 they spent in February-March into early April, and it was 130 hours, so I do appreciate the
33 incredible work that they did, and I'm very pleased that one of our most stalwart members
34 is here today, Noreen Wake. I'd also like to just take a minute before we start and also
35 thank Sandra Marin of the Council staff, who's over here, who helped keep track of 197
36 grant applications, which was an amazing feat, an amazing feat, so thank you very much.
37 Anyway, we do have 3 decisions to make today. One is a process one, and then the
38 County Executive grants and the Council President's recommended grants. By way of
39 background, I know Councilmembers remember that this year for the first time, the
40 Council indicated--thank you--the Council indicated that it was especially interested in

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1 proposals that provide emergency and other assistance to the neediest members of our
2 community, and you'll see when we get to the Council President's recommended grants
3 that about 2/3 of the recommended grants are for basic needs and safety net services.
4 So, I did want to emphasize that before we get started. If you go to page 2, there is a
5 process requirement that has been done in prior years, and assuming the Council
6 concurs, I'd like to continue that, and that is to require applicants who are awarded
7 funding, either through the County Executive recommended community grants or the
8 Council grants, to provide twice-yearly reports on the results that they've achieved. We
9 have done this beginning in Fiscal Year '08. The Council Grants Advisory Group is able to
10 use those reports in their work and evaluation. It's very, very helpful. I'd also like to thank
11 the Office of Management and Budget for their incredible work to implement that
12 requirement, especially, P. J. Bhardwaja. It is an amazing effort, but it's very, very helpful,
13 and with the Council's concurrence, I'd like to continue that requirement for Fiscal Year
14 '10. So without objection, we'll go ahead and do that for Fiscal Year '10 as well.

15
16 COUNCIL PRESIDENT ANDREWS:
17 OK.

18
19 PEGGY FITZGERALD-BARE:

20 Moving to page 2, just very, very briefly because I know we're pressed for time, I do want
21 to give just a couple of overview statistics that the Councilmembers might be interested in.
22 As I indicated, the Grants Advisory Group reviewed a total of 197 applications from 148
23 different organizations, totaling \$10.7 million. That is a slightly larger number of
24 applications than last year, a slightly less amount of funding. But that gives you some
25 context from last year. Of the ones that we received this year, the largest number of grant
26 requests and the largest dollar amount is in the Basic Needs Emergency Services area--
27 almost double what we had last year in terms of requests in this area, which I believe is
28 most likely due to the very difficult state of the economy that so many of our residents
29 whom the non-profit organizations serve are finding. The second largest number of
30 requests was in the area of youth development. That compares with last year, where that
31 was the largest request. So, those are just some summary statistics. If you move to page
32 4, this is the next item for action. The County Executive's recommended community grants
33 are--he recommends a total of 57 discretionary community grants for a total amount of
34 about \$2.5 million. Included in the packet on circles 1 and 2 is a complete listing of the
35 County Executive's recommended community grants. There is one technical adjustment
36 that I need to point out, which is that the Executive had recommended a community grant
37 for the Korean Community--

38
39 COUNCILMEMBER FLOREEN:

40 Excuse me. Peggy, what packet are you looking at?



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1 PEGGY FITZGERALD-BARE:

2 I am looking at--and I do have extra copies, if anyone needs--these are from yesterday.
3 Sorry. There are two packets.

5 COUNCIL PRESIDENT ANDREWS:

6 Agenda item 3 from yesterday.

8 PEGGY FITZGERALD-BARE:

9 Agenda item 3, which is what I'm working from now.

11 COUNCILMEMBER FLOREEN:

12 Oh, I see. I have the addendum, but I don't have the main one.

14 PEGGY FITZGERALD-BARE:

15 And there is also an addendum, which includes the Council President's recommended
16 grants, and I'm sorry. I did bring extra copies. I know, having lived on the sixth floor for
17 some period of time, that it's hard to keep track of all the paper at this stage. So, sorry
18 about that. Anyway, we are on agenda item number 3, the larger packet, and I'm on page
19 4. OK? In the middle of the page, I was noting that there is one technical adjustment that
20 we would like to make to one of the County Executive's recommended community grants,
21 and that is for the operation of the Korean Community Service Center's Health Clinic. It's
22 \$30,000. We learned that actually the budget of the Department of Health and Human
23 Services in the Montgomery Cares budget already includes \$25,000 for this particular
24 service by this particular organization, and so what we would like to do is to eliminate this
25 from the community grants nondepartmental account, transfer the remaining 5,000 to the
26 Department of Health and Human Services for this particular service, and the bottom line
27 is that frees up an additional 25,000 in resources for Council priorities. So that is one
28 technical adjustment we would like to make. And the executive branch staff concurs with
29 that approach. So with that, in prior years, the Council has acted on the remaining County
30 Executive recommended community grants as a group, so...

32 COUNCIL PRESIDENT ANDREWS:

33 OK. All right. We have a motion. Is there a second? All right, it's moved and seconded.
34 There's a question or comment from Councilmember Knapp.

36 COUNCILMEMBER KNAPP:

37 Thank you, Mr. President. I think it was yesterday we had a conversation as it related to a
38 number of grants that had been moved into the base budget, and I just would like us to
39 get some handle, since there's no--as Ms. Fitzgerald-Bare indicated, that we have seen as
40 dramatic increase in the number of social services types of organizations that have

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1 requested money for this year, persist--or consistent with what we have outlined, for us to
2 kind of track--they're the types of things that I think we would look at and say, wow, these
3 are important in helping the county's mission continue forward. I want to be careful,
4 though, that we don't see some--there's a way for us to track a great big--any big delta
5 that would move these important things back into the base, which then--it's kind of a
6 cyclical thing, so we'd move a bunch into the base, and then we end up with a lot more
7 capacity for new grants, which is good but also is stuff that we don't necessarily see
8 because it's rolled into the base. And so I just think it's something we need to track as we
9 go through, since there are no clear guidelines as to at what point does a grant become
10 something we want to put into the base. I just think it's something we need to continue to
11 monitor pretty closely, so what is the delta of what we put--what's in this year's base? How
12 much is that? And then whatever we add to that for next year and then just to have an
13 understanding of that as we approach next year's process, looking at grants and looking
14 at social services back into the base budget for our review.

15
16 PEGGY FITZGERALD-BARE:
17 OK.

18
19 COUNCIL PRESIDENT ANDREWS:
20 OK. All right, so there's a motion and second, and we'll have a vote, then. All those in
21 favor of the county--

22
23 COUNCILMEMBER LEVENTHAL:
24 Is this motion solely on the transfer of the Korean Community Service Center dollars?

25
26 COUNCIL PRESIDENT ANDREWS:
27 No.

28
29 COUNCILMEMBER LEVENTHAL:
30 This is approving all of the County Executive's grants, including the suggestion, the
31 transfer of the Korean Community Service Center?

32
33 COUNCIL PRESIDENT ANDREWS:
34 That's correct. OK. Everybody clear? All right, so it's a vote on the entire County Executive
35 list of grants. All those in favor, please raise your hand. That is unanimous, 8-0. Thank
36 you, Peggy.

37
38 PEGGY FITZGERALD-BARE:
39 OK. All right. The next item is--the spreadsheet that I've prepared in the Council packet
40 lists the relatively small number of grant requests received by the Council that were

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1 reviewed by Council committees. We don't really need to go through those, because they
2 have been acted on by the Council during the course of your review of certain budgets,
3 department budgets, so I just wanted to mention that briefly. The next item--and actually
4 the remaining item is the Council President's list of recommended grants, which, if you
5 now go to the addendum, I think that's really what will be most useful to you to review. The
6 Council President's list of recommended grants is a total of 47 Council grants for a total of
7 \$1.85 million, which I'll explain in a minute. The list that the Council President has
8 recommended also includes the staff list of recommended grants, which in turn is based
9 on the evaluation and work of the Council Grants Advisory Group. There is one error I
10 need to point out, which is the very first grant recommended in the President's list, the
11 African-American Festival of Academic Excellence. That should read \$10,000 instead of
12 \$5,000. That was an error on my part. I would like to again emphasize that of the 47
13 grants totaling about 1.8 million, almost 2/3 of the funding are for basic needs and other
14 safety net services consistent with Council priorities that were set this year. Most of the
15 remainder of the grants are in the youth development area. So I just thought I would give
16 you a little bit of a summary on that. And with that, those grants are--

17
18 COUNCIL PRESIDENT ANDREWS:

19 All right. OK.

20
21 PEGGY FITZGERALD-BARE:

22 available to be recommended to be put on the Council's reconciliation list.

23
24 COUNCIL PRESIDENT ANDREWS:

25 OK, and there's a motion to that effect from Councilmember Floreen, seconded by Council
26 Vice President Berliner. I don't see any discussion, so all those in favor, please raise your
27 hand. That is unanimous, and so those will all go on the reconciliation list.

28
29 PEGGY FITZGERALD-BARE:

30 Great.

31
32 COUNCIL PRESIDENT ANDREWS:

33 Thank you.

34
35 PEGGY FITZGERALD-BARE:

36 Thank you very much.

37
38 COUNCIL VICE PRESIDENT BERLINER:

39 Thank you very much.



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1 COUNCIL PRESIDENT ANDREWS:

2 Yeah. You always do great work on the grants. Thank you, Peggy.

4 PEGGY FITZGERALD-BARE:

5 Yup.

7 COUNCIL PRESIDENT ANDREWS:

8 All right. We're now ready, I believe, to go on to our final--nope, we have item 4 next,
9 which is our CIP amendment, cost sharing, Montgomery County government community
10 grant state match projects. I believe this came out of the Health and Human Services
11 committee. Is that right?

13 COUNCILMEMBER LEVENTHAL:

14 It did, Mr. President. I'll let Peggy describe the committee's actions.

16 PEGGY FITZGERALD-BARE:

17 All right. I also have extra copies of that packet if anyone needs it.

19 COUNCILMEMBER FLOREEN:

20 We had it yesterday.

22 PEGGY FITZGERALD-BARE:

23 Yes, yes. Anyone need that, or are we all set?

25 COUNCIL PRESIDENT ANDREWS:

26 Anybody need it? Pass a few along. There you go.

28 PEGGY FITZGERALD-BARE:

29 I'll wait till everyone gets one. OK.

31 COUNCIL PRESIDENT ANDREWS:

32 OK.

34 PEGGY FITZGERALD-BARE:

35 Um, all right. The Health and Human Services committee reviewed 3 capital projects from
36 non-profit organizations that the County Executive had recommended. Those 3 are listed
37 on the front page: Aunt Hattie's Place for \$100,000; Casa de Maryland for 100,000, and
38 the Jewish Council for the Aging for 50,000. The committee recommended 3-0 in favor of
39 these projects, although there is a subsequent view by one of the committee members
40 that I'll explain briefly in a minute. But the committee did recommend--there are two other



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1 actions related to Aunt Hattie's Place that I think ought to be described to the full Council.
2 The committee recommended approval of the \$100,000 for Aunt Hattie's Place. They also
3 recommended deleting certain language that had been in the approved FY09 funds for
4 Aunt Hattie's Place, and that language that the committee is recommending deleting is on
5 page 2 at the top of the packet. That language had said that the FY09 funds must only be
6 spent on construction and that the organization must demonstrate to the county's
7 satisfaction that it has commitments, or pledges, for the entire funding needed to construct
8 the project before the 250,000 in county funds can be spent. The committee
9 recommended removing that restriction and also not to include that restriction in the use of
10 FY10 funds, and the reason for that was that the applicant stated--and there are
11 representatives from the applicant, if Councilmembers have any questions. The applicant
12 stated that if that restriction were lifted, along with the approval of the additional funds for
13 FY10, that the applicant would be able to construct the shell of the house, and they then
14 felt that that would put them in a strong position to be able to raise the remaining funds
15 that are needed for the particular project. The committee did recommend retaining
16 language that had been inserted last year to require the owner of the property to give the
17 county an appropriate covenant to restrict the use of the property for a group home for
18 foster children for a period of 10 years. Subsequent to the committee meeting,
19 Councilmember Berliner indicated that he wished to change his position. My packet
20 indicates--unless--OK.

21
22 COUNCIL VICE PRESIDENT BERLINER:

23 You called me out. Go ahead.
24

25 PEGGY FITZGERALD-BARE:

26 Councilmember Berliner supports approving the \$100,000 for fiscal year '10 for Aunt
27 Hattie's Place, but he indicates that he wishes to retain the condition previously imposed
28 for FY09 and to impose that condition for FY10 to say that the applicant would have to
29 demonstrate that they had pledges or commitments for the entire funding needed to
30 construct the project. What that would mean, as I said, is the applicant, as last year, would
31 have to demonstrate that they have commitments for the entire funding, but at that point,
32 the applicant would then be able to avail themselves of \$350,000 in county funds. So I just
33 thought I ought to mention that briefly for the full Council. But the committee's
34 recommendation is to support the funding for this project without the restricted conditions
35 other than the covenant issue. That's the committee's recommendation on that one.
36

37 COUNCIL PRESIDENT ANDREWS:

38 A couple of lights here. Councilmember Knapp.
39



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1 COUNCILMEMBER KNAPP:

2 Thank you, Mr. President. If you look there on the bottom of page 2, there is an item that I
3 had followed up with the committee Chair--oh, OK. Then I'll wait.

5 COUNCIL PRESIDENT ANDREWS:

6 OK. All right. We'll come back to you. So let's stick to the first item first. Who's on this?
7 OK, Council Vice President Berliner.

9 COUNCIL VICE PRESIDENT BERLINER:

10 I just wanted to share with my colleagues--this was one of those difficult decisions.
11 Obviously, this project is put forth by a woman of great heart and who wants to do the
12 right thing. Not--to date, the organization has been unsuccessful in acquiring any dollars
13 from any source other than government with respect to this, and so my own view was that
14 we were well-served by the previous condition and that we should continue that previous
15 condition to demonstrate that this project actually will get the support it needs. They made
16 the case, and during the heat of the debate, I was prepared to go with them that, gee, our
17 fundraising would be so much more successful if we actually could go forward and build
18 some portion of this building and that they'd be more successful there, and upon
19 reflection, I concluded that that wasn't persuasive enough for me. So it was on that basis I
20 think it's the first time that I have formally changed my vote on a matter, but I just felt I
21 wasn't comfortable with this, and so I just wanted to share that with my colleagues and
22 certainly respect the majority committee's view with respect to this matter.

24 COUNCIL PRESIDENT ANDREWS:

25 OK. Councilmember Floreen.

27 COUNCILMEMBER FLOREEN:

28 Thank you. We've looked at this project--gosh, for a long time, and I had a question. I'm
29 looking at page 6--I think this is for Hattie's Place--which shows the amount of dollars
30 associated with the project. It alludes to prior state bond bill funding. Did that come up in
31 committee? As I recall, bond bills only last--resources only last for a certain number of
32 years. Mr. Leventhal has the answer, perhaps. Looks like--

34 COUNCILMEMBER LEVENTHAL:

35 [Indistinct]

37 COUNCIL PRESIDENT ANDREWS:

38 Councilmember Leventhal, go ahead.



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1 COUNCILMEMBER FLOREEN:

2 If you have the response. I was wondering about the reliability of the state dollars for this
3 project.

4
5 COUNCILMEMBER LEVENTHAL:

6 The state bond bill was approved in the amount of--I think--

7
8 COUNCILMEMBER FLOREEN:

9 It says 550.

10
11 COUNCILMEMBER LEVENTHAL:

12 For 550. That needs to be matched. If it's matched, they can spend it. If it isn't matched,
13 they can't spend it.

14
15 COUNCILMEMBER FLOREEN:

16 But is that the current--

17
18 COUNCILMEMBER LEVENTHAL:

19 The bond dollars are still available.

20
21 COUNCILMEMBER FLOREEN:

22 They are?

23
24 COUNCILMEMBER LEVENTHAL:

25 The time frame has not run out in which the bond monies are available, but they have to
26 be matched. That's what the entire--

27
28 COUNCILMEMBER FLOREEN:

29 That's what this is all about. Yeah.

30
31 COUNCILMEMBER LEVENTHAL:

32 CIP amendment is about. We have many organizations that get state bond bills. They
33 come to us and ask for matching funds. This is one of those. It's not unique that an
34 organization gets state bond money and is matched only with county money. That's not by
35 any means unique. I don't have a list in front of me, but there are many, many, many
36 nonprofits that have done the same that have--we're not matching the entire state bond
37 bill, but we provided 250,000 last year. If we provide an additional 100,000 this year, that
38 still would not match the entire state bond bill--



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1 COUNCILMEMBER FLOREEN:

2 Oh, I see. So what it is is that we have already--this is the same bond bill that we have
3 been contributing towards the match.

5 COUNCILMEMBER LEVENTHAL:

6 That's correct...

8 COUNCILMEMBER FLOREEN:

9 OK. That explains it.

11 COUNCILMEMBER LEVENTHAL:

12 And it would be to draw down the state dollars, which otherwise they would not be able to
13 do.

15 COUNCILMEMBER FLOREEN:

16 Because as I see, according to the memo here, for this current fiscal year, their
17 application was not successful, it says.

19 COUNCILMEMBER LEVENTHAL:

20 They got a state bond bill the prior general assembly session.

22 COUNCILMEMBER FLOREEN:

23 Several years ago, yeah.

25 COUNCILMEMBER LEVENTHAL:

26 Several? No. I think it was in--

28 COUNCILMEMBER FLOREEN:

29 Was it just last year?

31 COUNCILMEMBER LEVENTHAL:

32 2008. I think it was in the 2008 session of the General Assembly. But they did not get one
33 in the 2009 session.

35 COUNCILMEMBER FLOREEN:

36 And did you talk about how soon it might be that they would begin to actually construct the
37 facility?

39 COUNCILMEMBER LEVENTHAL:

40 I guess my question would be, is there a motion here?

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1 COUNCILMEMBER FLOREEN:

2 OK. I just wanted to--

4 COUNCILMEMBER LEVENTHAL:

5 We can ask for a lot of information about the project, or--

7 COUNCILMEMBER FLOREEN:

8 I wanted to ask because Mr. Berliner's question has raised, at least in my mind--

10 COUNCILMEMBER LEVENTHAL:

11 I didn't hear Mr. Berliner offer a motion. I don't know if he intends to do so.

13 COUNCILMEMBER FLOREEN:

14 Well, this is our chance to ask questions about these things, and OK, so that's what the
15 dollars are for, to continue the effort, and the Hattie's Place folks are continuing--

17 COUNCILMEMBER LEVENTHAL:

18 There is an attorney present who is donating her time pro bono at great expense. And
19 many in-kind resources have been raised from the community, including legal
20 representation, architectural drawings. You know, a great deal of expense pro bono has
21 been donated to get permitting through the Board of Appeals, get it through the Planning
22 Board, so there have been a lot of private resources raised. If the attorney is in a position
23 to--I don't know how many questions Ms. Floreen may have...

25 COUNCILMEMBER FLOREEN:

26 That's OK. I can ask off the record, then.

28 COUNCILMEMBER LEVENTHAL:

29 ...answer Ms. Floreen's questions, you know, the clock is ticking.

31 COUNCILMEMBER FLOREEN:

32 She's donated time to be here.

34 COUNCILMEMBER LEVENTHAL:

35 We could raise some more private resources right here and now, if Ms. Floreen has a lot
36 of questions.

38 COUNCILMEMBER FLOREEN:

39 That's fine, Mr. Leventhal. I'll follow up with them.

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1 COUNCIL PRESIDENT ANDREWS:

2 Councilmember Elrich.

4 COUNCILMEMBER ELRICH:

5 If Mr. Berliner is interested, I'd be willing to move your proposal. I think if the state's
6 proposal is no money should be spent until the match is there, I think it makes sense for
7 the county not to be spending its money until the match is there. It would be a shame to
8 get halfway down this road and have neither a project nor the money at the end of it. We
9 know there are plenty of other worthy groups that we could have easily given this money
10 to this year and watched it go out the door and get spent and have a product for it. So I'm
11 willing to propose what Mr. Berliner has suggested would be the prudent course.

13 COUNCILMEMBER LEVENTHAL:

14 Just to be clear, the state money can't be spent unless it is matched. If you say--

16 COUNCILMEMBER ELRICH:

17 This is a match.

19 COUNCILMEMBER LEVENTHAL:

20 If you say that the co--well, if you say that the state money represents a match for the
21 county money, then that's what the committee's already agreed to. If you're saying that the
22 county money cannot be spent until the entirety of the project is raised, I'm not aware that
23 we've done that for any other nonprofit that we're supporting, nor any other capital project
24 that has gotten state money in state bond match. If what you're saying is--

26 COUNCILMEMBER ELRICH:

27 I'm confused. Have we allowed buildings to start construction without knowing whether or
28 not you'd have the money?

30 COUNCILMEMBER LEVENTHAL:

31 Absolutely. The Easter Seals building in Silver Spring comes immediately to mind, and I
32 can think of others--maybe staff can help me--but the Easter Seals Intergenerational
33 facility is one. The JCA building that we just contributed to is another. We've contributed
34 money to capital projects--many in the community without knowing the entirety of the
35 funding. Those are two that I know of, but I'm certain that there are many more.

37 COUNCILMEMBER BERLINER:

38 If I could clarify. I would just say, Mr. Chairman, we did have a condition last year for
39 exactly the same condition...



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1 COUNCILMEMBER LEVENTHAL:

2 Absolutely, we did.

4 COUNCILMEMBER BERLINER:

5 Because of the concern that the committee had at that time with respect to whether or not
6 this project was viable, notwithstanding its wonderful vision, and so last year, this
7 committee unanimously approved a condition that said, we will commit our dollars when
8 you show us that you have raised money from private sources sufficient to complete this.
9 So I would only observe that we may not have done this in other instances, but we did it
10 here for good reason.

12 COUNCILMEMBER LEVENTHAL:

13 We did. There's no question, Mr. Berliner. The issue, as Dr. Washington explained to us,
14 is that this county restriction is precluding her from spending \$550,000 that she has been
15 granted by the Maryland General Assembly. That is an unusual restriction. We have not
16 provided that same restriction to other nonprofit capital projects. Like all of us, I would like
17 to see this project succeed, and I don't want to see money wasted. However, without the
18 restriction, Dr. Washington has \$872,718 that she can spend. If we put the restriction back
19 in place, she can't spend the state money either, so hundreds and hundreds of thousands
20 of dollars that legislators at the state and county level have already agreed that she may
21 spend, she can't spend. So that is what we learned in committee. So you're not only telling
22 her, we want you to raise more private money, which of course we do, but you're telling
23 her, we won't let you spend the money that you've already been granted by an act of the
24 Maryland General Assembly because we agreed to provide the match, and now we won't
25 let her use the match. That's the effect of what the restrictive language does. So she's
26 sitting on hundreds and hundreds of thousands of dollars which would absolutely let the
27 project get started if you say, we won't allow you to put a single stick in the ground until
28 you have identified 100% of your financing, that is indeed an unusual restriction. I
29 understand the concern about the viability of the project. I share it, but \$872,718 is pretty
30 viable, to my eye, and we've already voted for all of those dollars, and the County
31 Executive--actually, we haven't added anything. We put in 250,000 last year. The County
32 Executive recommended 100,000. We're only exceeding to the County Executive's
33 recommendation here. We're not adding anything new. So either you let her spend the
34 872,000 you've already got, and then the question comes, is the Council encouraging her
35 ability to raise private dollars, or are we actually precluding her ability to raise private
36 dollars? Because if we continue a restriction in place that prevents her from spending the
37 state dollars, then, you know, it's a catch-22. She's unable to raise any private dollars
38 because she can't spend the money she's already got.



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1 COUNCIL PRESIDENT ANDREWS:

2 OK. Councilmember Trachtenberg has a light on.

4 COUNCILMEMBER TRACHTENBERG:

5 Yeah. Just a brief comment. I think Councilmember Leventhal and I put our lights on
6 probably at pretty much the same time because he is--he did, for the most part, I think,
7 make a compelling case for why this would be the right thing to do. You know, my
8 perspective within the committee was that by doing this, we'd be allowing optimal flexibility
9 for Aunt Hattie to go forward with the project, and obviously we want to be able to allow
10 her to use the money to be able to provide leverage for the fundraising that's necessary to
11 really get the house completed. And in my mind as well, I sort of looked at this as probably
12 the right thing to do because her hands will be tied, to a large degree, I believe, if she
13 can't utilize some of the funds to get something up and standing, because more than
14 likely, that is gonna be how she's gonna be able to raise private donations. At least, I was
15 convinced by the argument within committee, and I'm trying to be pragmatic about this. I
16 would note to my colleagues that last year, I didn't support any additional funding to the
17 project, but having seen the arguments that were made in the committee a few weeks
18 back, I think George is right. It would be unique to maintain the restriction because we're
19 not doing it for other partners, but more importantly, we really want to give her every
20 opportunity so that the project succeeds, and that was really my bottom line.

22 COUNCIL PRESIDENT ANDREWS:

23 OK. There is no motion, so the Council is accepting the committee recommendation.
24 Thank you. All right. Councilmember Knapp, we're coming back to you.

26 COUNCILMEMBER KNAPP:

27 Um, if you look at the bottom of page 2, a project that the Council has supported in the
28 past is on the verge of being able to actually finally get the gymnasium constructed at the
29 Boys and Girls Club in Germantown. This has been going on in real time. Had we known
30 about this before, I would have had them submit information earlier on in the process.
31 They have been raising money right up to the--we had a fundraiser a month ago, and as
32 they have now gotten to the point of actually beginning to break ground, they've found
33 they are shy of an additional \$38,000, and since we already have a cost-sharing NDA that
34 is here, I would ask my colleagues' support to add an additional \$38,000 to round out the
35 resources required for this project, and it will be completed, and we will have a new gym
36 for the Boys and Girls Club in Germantown within the month.

38 COUNCIL PRESIDENT ANDREWS:

39 OK. I'll second that. OK. Without objection to adding that to the reconciliation list? OK. All
40 right.

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1 COUNCILMEMBER KNAPP:

2 And I thank the Chair and Ms. Fitzgerald-Bare for their assistance in this.

4 COUNCIL PRESIDENT ANDREWS:

5 OK.

7 PEGGY FITZGERALD-BARE:

8 Council President Andrews, this actually is a CIP item, so it doesn't go on our...

10 COUNCIL PRESIDENT ANDREWS:

11 You're right. We've switched budgets.

13 PEGGY FITZGERALD-BARE:

14 reconciliation list, expect that all CIP items are obviously subject to final reconciliation.

16 COUNCIL PRESIDENT ANDREWS:

17 Yes. You're right. Thank you for reminding me.

19 PEGGY FITZGERALD-BARE:

20 Sure. And shall I assume that the Council is also approving the other two cost-sharing
21 items recommended by the committee for Casa de Maryland and the Jewish Council for
22 the Aging?

24 COUNCIL PRESIDENT ANDREWS:

25 You should assume there are no objections. Thank you. All right, and that takes care of
26 item 4, right?

28 PEGGY FITZGERALD-BARE:

29 Yes.

31 COUNCIL PRESIDENT ANDREWS:

32 OK. All right, now we're coming back--we're on agenda item 10-1. It's a memorandum
33 from Linda McMillan. Everyone have it? I'm assuming everyone does. Linda, do you have
34 any extra copies, if necessary? OK. You might want to just hand a few down. Yes. Right.
35 OK. You can pass that down, too. That's fine. All right. We are returning to this. We had a
36 brief discussion on this issue last week, and we indicated that it might come back before
37 the Council, and we are back. I asked Linda McMillan to provide some summary points
38 and comments about the proposal, and there you are, and is the letter there as well?



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1 COUNCILMEMBER FLOREEN:

2 I think it's that thing.

4 COUNCIL PRESIDENT ANDREWS:

5 Yes, you're right. Here it is. Yes, you're right. There it is. So in fact, I will ask Linda to
6 summarize what she has provided, since she can do it better than anyone.

8 LINDA McMILLAN:

9 The proposal that was discussed was to shift approximately \$3.6 million in rental
10 subsidies that are currently appropriated or are proposed to be appropriated to the
11 Department of Health and Human Services as general-fund-backed appropriation that are
12 the rental subsidies for the RAP program, the Rental Assistance Program, which is one of
13 about 4 programs that we have. If the money was shifted into the HIF, then \$3.6 million in
14 general funds would be freed up for the Council to potentially use for other Council
15 priorities. I did want to provide you with a few summary points and then a couple of
16 comments as to why, in Council staff's view, this is a reasonable proposal for the Council
17 to consider, but as the summary points show, the County Executive's budget does include
18 3.632 in rental subsidies for RAP. The County Executive's recommended budget also
19 includes 360,000 in rental subsidies for RAP, 3.25 million in rental subsidies for the
20 Housing Initiative Program, which was previously called TRAP, and 832,000 in rental
21 subsidies for the Partnership for Permanent Housing. In the HIF, this was done as a part
22 of the Council's actions for FY09 that reserve 4.5 million in FY09 for Housing First. Rental
23 subsidies are appropriate to fund through the HIF, and so the Executive's FY10 budget
24 continued the 4.5 assumption and used it to fund these other rental subsidies but
25 continued to have 3.6 million in rental subsidies backed by the general fund in the
26 Department of Health and Human Services. The County Executive is recommending an
27 appropriation of 57.8 million to the Housing Initiative Fund. When I spoke to you last week
28 about this, there were approximately \$30 million of uncommitted funds that would be
29 available. We did just receive a memo from the County Executive, and as of now, there
30 are now an additional approximately \$6 million of FY10 commitments to the HIF. I think
31 you'll recall that last week--

33 COUNCILMEMBER ERVIN:

34 What time did that come over? Because we just received this memo, like, when?

36 LINDA McMILLAN:

37 It was distributed today to the Council. And so it has a new--in the memo, you'll see there
38 is a page that looks like this. Last week you had a page that looked like this. There's
39 approximately a \$6 million difference in the commitments for FY10 for the Housing
40 Initiative Fund. So I do want to just state that because if you do agree to this proposal, the

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1 numbers that I had in the packet would be somewhat different. I would also note for you
2 that the County Executive, in making his own decisions about priorities, reallocated about
3 \$5 million from tier 3 recordation tax that's attributed in FY09 and 10 that current law
4 would require go to rental assistance for low- and moderate-income households to fund
5 his overall priorities and has asked the Council to pass legislation to change that, which
6 the MFP committee has recommended that the change would only be in effect for FY09
7 and 10 in order to address this budget, but the committee did not agree to continue it past
8 FY10 and then to revert to existing law, which requires it to go for rental assistance
9 purposes. I would also just note for you that the county has already received about \$2
10 million in federal stimulus monies that you appropriate under Neighborhood Stabilization,
11 and we're expecting to receive another 2.5 through the state's Neighborhood
12 Conservation Initiative Program, and so what I have said to you is that I think the shift to
13 the HIF is a reasonable way to free up general fund monies that may be needed to fund
14 the Council's priorities that are not included in the County Executive's budget, and you all
15 are about to enter into reconciliation, but you have actually a very small reconciliation list
16 because you've all been very careful about the decisions you've made, but the things on
17 the reconciliation list, many of them are to serve, in fact, low-income persons. There's
18 about \$580,000 in reconciliation list items that are for primary, specialty, and mental
19 health care for low-income uninsured. You just heard that about 2/3 of the grants are for
20 safety net needs. There's another 123,000 that's on the reconciliation list for RAP-around
21 services so that children who might otherwise be placed in residential treatment can stay
22 in the community with RAP around or they can come back for step-down and also for
23 children who are at risk of gang involvement, and then there's also about another
24 \$400,000 on your list to keep police stations, 3 of them, open as they are now--the two
25 district stations and the satellite facility in Piney Branch. So these are Council items that
26 you have identified as priorities that you want to look at in terms of reconciliation, and so
27 this would be a reasonable way, potentially, to free up some money to do that. The HIF
28 clearly can be used as a source of money for rental subsidies, since we are currently
29 doing that. It does have an opportunity cost, so I do want to be clear about that. The
30 opportunity cost is that there is \$3.6 million less of uncommitted monies in the HIF that
31 would be available for projects that may come forward in Fiscal '10, and that is your
32 opportunity cost, and so that's your tradeoff to make as you reconcile, but I did want to get
33 back to you with those points. I would note that if you were to do this, then you would have
34 about \$9.5 million of the HIF funds that we would put in the language as being reserved
35 for the Housing First initiative because RAP already is a part of Housing First and some of
36 the subsidies are already in there. So then the 9.5 would be the reservation for those
37 monies.



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1 COUNCIL PRESIDENT ANDREWS:

2 OK. Thank you for that excellent summary. I'm going to turn to Council Vice President
3 Berliner.

4
5 COUNCIL VICE PRESIDENT BERLINER:

6 Thank you, Council President, and I want to commend my colleagues Councilmember
7 Leventhal and Councilmember Knapp for their having proposed this last week. I think it
8 was the right idea then, I think it's the right idea now, and I would like to so move it, and so
9 I make that motion, and I want to thank staff--these are difficult times. We have difficult
10 choices. With the greatest respect, the County Executive made a choice with respect to
11 how to spend a portion of the recordation tax with respect to his priorities, and we are now
12 in a situation where we have to do the same. This Council is a staunch supporter of
13 affordable housing, and there cannot be any doubt about that fact, and I am not going to
14 allow a police station to be closed at night, and we are going to provide a stronger safety
15 net for our citizens. We're gonna provide more health care for the uninsured. So we have
16 to say to ourselves, which in this moment in time is more important? And they're all bad
17 choices. But in this moment in time, if I have to choose between keeping a police station
18 open and providing more health care to the uninsured, then this increment of affordable
19 housing at a time when housing is the least expensive it has been in years in this moment,
20 I perceive that that is what is called for, and that is the choice that I make, and I hope a
21 majority of my colleagues agree with me.

22
23 COUNCILMEMBER ERVIN:

24 Second.

25
26 COUNCIL PRESIDENT ANDREWS:

27 OK. So it's been moved by Council Vice President Berliner, seconded by Councilmember
28 Ervin. Councilmember Knapp is next.

29
30 COUNCILMEMBER KNAPP:

31 Thank you, Mr. President. We've just gotten a number of pieces of new information which
32 I'd like to get some clarification on. I'm always intrigued when we get letters from the
33 County Executive which go with, "I submitted a balanced and fiscally responsible
34 spending plan to the Council," somehow implying that the decisions we're going to make
35 are somewhat less fiscally responsible or less balanced, since at the end of the day, we
36 actually have a statutory requirement for us to pass a balanced budget, so I'm pretty sure
37 if we're all going to seek the moral high ground, there's always going to be a lot of
38 crowding by the time we get there. But it's always fascinating to me to get those kinds of
39 letters. If we actually want to go through the assumptions of the balanced and fiscally
40 responsible decisions that were in the other budget that we've gone through, I'd love to



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1 have that debate with lots of folks. But nevertheless, I am intrigued by this document that
2 we just received that has moved \$6 million of funding from 2009 to 2010 as it relates to
3 the HIF, and what happened between Thursday at 2:00 and Tuesday at 2:00 that required
4 us to move \$6 million from one year--the current year, where we, last I remembered, I
5 think we had this update a week and a half ago. We had plenty of resources in the current
6 HIF for this year. What requires moving \$6 million out of this year into next year?

7
8 RICHARD NELSON:

9 First let me also apologize for you having just received--

10
11 JAMES STOWE:

12 Can you move your microphone?

13
14 RICHARD NELSON:

15 Let me just apologize for you having just received the memorandum from the County
16 Executive. It is my understanding it was delivered to the County Council yesterday as per
17 your request. In terms of the \$6 million difference, there are 2 or 3 major items. We did not
18 include in the estimate that we had given you last time the debt service for the revolving
19 fund of \$2.18 million. That is now in this listing that we have provided yesterday. There are
20 the 3--Aspen Court, Sligo, and the other Aspen Court projects, which were included in the
21 '09, we didn't have sufficient funding in the '09 to fund that, so that's why we put that on
22 this list. Similarly, Hampton Lane--

23
24 COUNCILMEMBER KNAPP:

25 Hold on. We just got an update from you a week and a half ago, and you made no
26 reference to the fact that we didn't have sufficient funds in '09 to fund that.

27
28 RICHARD NELSON:

29 That is not a new acquisition. That is--we have some money in the--I believe we have
30 money--

31
32 JAMES STOWE:

33 [indistinct]

34
35 RICHARD NELSON:

36 We have some money left in the Acquisition Fund, but these are rehab, and that's why we
37 moved it to--



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1 COUNCILMEMBER KNAPP:

2 And that wouldn't have made sense to have raised to the committee a week and a half
3 ago when we had this update?

4
5 JAMES STOWE:

6 When you asked for the update, Councilmember, we told you we would get back to you.
7 We went further back and scrubbed the list about what was there and when we got it. The
8 first request came late in the afternoon, reported just off a tad. We went further back, and
9 then we had an additional request from Victory Housing's St. Camilla's?????, which has a
10 202 commitment and will need a gap financing of 1.3 million before they can exercise their
11 recently awarded commitment. We had their predevelopment request on the list, and they
12 will need the commitment of 1.3 million, which is their gap of their HUD-awarded 202,
13 which they just received, before they can close that project.

14
15 COUNCILMEMBER KNAPP:

16 OK. So in the balanced and fiscally responsible spending plan that was submitted to us,
17 we neglected \$2.1 million in debt service?

18
19 RICHARD NELSON:

20 No, no. It's in the spending plan. We had not listed it in the...

21
22 COUNCILMEMBER KNAPP:

23 Oh, I see.

24
25 RICHARD NELSON:

26 2010 commitment that we gave to the staff.

27
28 JAMES STOWE:

29 I actually believe that it's shown as a transfer to the debt service fund before you get to the
30 \$57 million in your fiscal plan.

31
32 RICHARD NELSON:

33 No, it's a use of the \$57 million in resources.

34
35 COUNCILMEMBER KNAPP:

36 Well, I'm not sure ????? on the motion before us, but I am amazingly dubious when we
37 send over, in a 36-hour period, \$6 million in additional expenditures to something that has
38 plenty of capacity. I just think that--I don't know. It just seems like we're playing games,
39 which we probably are.



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1 RICHARD NELSON:

2 Let me also explain, if I can, that these commitments for FY2010 are estimates of
3 commitments, some of which carry over from 2009, some of which we've had discussions
4 with the sponsors, and this is our guess as of right now. We obviously have not signed a
5 commitment in all cases because we don't have the funding. We are sitting at the end of
6 FY09 talking about spending FY10 funds of \$57 million, and at this point, we can't have
7 hard commitments for all \$57 million in FY10. As I indicated to you the other day, between
8 May of last year and May of this year, we had gotten and funded \$28 million worth of
9 requests, which indicates sort of the level of response that we get during the course of the
10 year. These numbers do in fact change. Every day when we talk to proposed developers.
11 When we come to the PHED committee with reports on the HIF, they will change because
12 projects have changed. Some projects have fallen out. Some we might have gotten
13 another source of funding for. Until, in fact, the commitment and the contract is signed, it
14 is not absolutely hard, so we all have to expect there will be some changes.

15
16 COUNCILMEMBER KNAPP:

17 And I would humbly submit that if the Council chooses to spend \$3.6 million in rental
18 assistance, the numbers will change yet again. I appreciate that may not jive with the
19 County Executive's priorities, but to come over with a list of \$6 million of things 36 hours
20 after we make a motion, I think just smacks of being very disingenuous.

21
22 COUNCIL PRESIDENT ANDREWS:

23 Councilmember Leventhal.

24
25 COUNCILMEMBER LEVENTHAL:

26 A lot of decisions have been made in the last few months, of necessity, that none of us
27 are happy about. Um...I met with a number of churches last week who are concerned
28 about students who need some guidance and are being suspended, and the SHARP
29 program, that is widely respected around the county, is proposed for a 75% cut in the
30 County Executive's budget. The County Executive has proposed to eliminate Chore
31 Services for old people who can't dress themselves, can't put their plates away in their
32 cabinets. The county used to provide those services, but it isn't going to anymore because
33 the County Executive proposed getting rid of those services. Now, the Council
34 understanding--those are just two examples, there are many others--that we have to make
35 some very hard choices, has gone along with those cuts, and the Council has not
36 criticized the County Executive or questioned his commitment to the frail elderly or to
37 troubled young people, and I don't question his commitment to those needy constituents.
38 But I understand that on Friday morning, when Council committees were in session trying
39 to make decisions about this budget, the County Executive appeared before the
40 Affordable Housing Conference and questioned the commitment of Councilmembers to

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1 the cause of affordable housing, which we all believe in, both because Councilmembers
2 were not present at this meeting, which was scheduled at a time when Council
3 committees were in session, the week before budget, but also because a suggestion had
4 been made that \$3.6 million might be used in the HIF for rental assistance subsidies. So
5 we're sort of at a decision point here in terms of the relations between two branches of
6 government. We're all making tough choices, and we can all politicize those choices, or
7 we can recognize that things are difficult and we can pull together and we can pass a
8 budget. I'm not sure which direction we're gonna go. I'm not sure which direction I'm going
9 to go. I'm not sure which direction my colleagues are going to go, and I'm not sure which
10 direction Mr. Leggett is going to go. There comes a point where the Council has got to
11 raise its hand and vote, and I guarantee you that when Mr. Leggett was here on the
12 Council, he didn't vote for every single priority that County Executive Kramer or County
13 Executive Potter or County Executive Duncan sent over. So some of the communication
14 that I've seen in writing and some of the words that I have had relayed to me that were
15 spoken in public by the County Executive about this Council--and I'm speaking about the
16 Council as a body now--our support for affordable housing--opened the door to an even
17 more troublesome relationship than one we've already got, which isn't perfect. And I
18 appreciate Linda McMillan's observation that the Council is trying to add mental health
19 treatment, add primary health care for low-income people, add a staff position at
20 Conservation Corps that will enable troubled children to get their GED. We're trying to add
21 those things that were cut by the County Executive. And we're trying to add some grants
22 that will assist nonprofit service providers to meet the needs of the hungry and the
23 homeless, and I think those are very important observations that Linda McMillan made,
24 and I appreciate Mr. Berliner's observation. We got a memo from the County Executive
25 suggesting that the law that calls for 100% of recordation tax revenue to be spent for
26 affordable housing ought instead to be transferred to the general fund. That was Mr.
27 Leggett's proposal. I appreciate those facts being put on the table as we decide how we're
28 gonna vote on Mr. Berliner's motion.

29
30 COUNCIL PRESIDENT ANDREWS:
31 Thank you. Councilmember Floreen.

32
33 COUNCILMEMBER FLOREEN:

34 Thanks. The diffic--well, I don't support doing this, but the bigger difficulty--and this isn't
35 about our commitment to housing. This is about how we balance budget, it seems to me,
36 and I guess my concern with this is, I don't even know what we're shooting for. We don't
37 have a list of options, this issue with the recordation tax. We haven't talked about it. We're
38 gonna take this up tomorrow?



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1 COUNCIL PRESIDENT ANDREWS:

2 Mm-hmm.

3
4 COUNCILMEMBER FLOREEN:

5 I really think it's inappropriate--well, I don't support doing this at this time. I don't support
6 doing it period, but I certainly don't support doing it without looking at the other issues
7 associated with this. What are the puts and the takes that we've got to resolve? That's our
8 job. But looking at this in isolation without looking at the range of where we are on our
9 budget conversations--we still, of course, haven't heard from the state on the school
10 situation. Any word on that, Mr. Farber?

11
12 STEPHEN FARBER:

13 No.

14
15 COUNCILMEMBER FLOREEN:

16 No, so probably we won't hear--we'll be lucky if we hear by close of business on Friday at
17 this rate, right? So we're not gonna know, but I don't see the need to have this
18 conversation at this point. I mean, obviously some folks are raring to go on it. There are
19 other pieces with respect to the recordation tax we should talk about, what is the problem
20 that we're solving there. I don't know the range. I honestly don't. Maybe others do, but I
21 haven't seen a piece of paper that shows me where we are and if we haven't gone far
22 enough in other areas to find the dollars that we need to balance this budget. I've talked to
23 some staff that have shown some options. We haven't talked about them yet. How we
24 deal with the capital budget. We haven't heard from Mr. Farber, which we're gonna hear
25 his grand exegesis on state of the economy tomorrow morning, I guess. But I don't think
26 we should be doing this now. I don't know what the trade-offs are. I honestly don't. So if
27 we are absolutely committed to one gap and at that point we have to make really hard
28 decisions, well, let's do it then but not in isolation, and I think that this is a big cut. This is
29 an elimination of 3.6 million from housing, period. We agree. That's what it is. Let's also
30 agree we bulked it up significantly over time. We've done a great job in housing, and I
31 think it was wrong of the County Executive to take his shots the way he did, apparently,
32 the other day. But until--I don't think the rubber is ready to hit the road on this one till we
33 look at the range of issues that we have to solve, what we can't solve. I think--I've heard
34 some allusions to opportunities. I know there are resources in different funds that could
35 come back to us that we can look at, but going to something that is a priority, I think for
36 every single Councilmember here at the get-go, I don't think this is the right way to solve
37 this problem. So I'm not gonna support this proposal at this point. I don't think I'm gonna
38 support it at another point. But at least at this point, I just don't know what else is on the
39 table, what could be on the table. So I'm not there yet.

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1 COUNCIL PRESIDENT ANDREWS:

2 Let me try to respond. We do have--we have completed the committee action on budgets.
3 We know what's on the reconciliation list. We know that about \$9 million needs to be
4 found, and we have a variety of initiatives that were laid out in the tracking sheet that went
5 out Friday, I believe. This was identified as one that, along with the other combination,
6 would bring in--was it up to 11? I think it was 11. But it's in the 9 million to 11 million range
7 that we're looking for.

8
9 COUNCILMEMBER FLOREEN:

10 We don't have that in front of us now, Mr. President.

11
12 COUNCIL PRESIDENT ANDREWS:

13 Well, it's been before us for a day or two.

14
15 COUNCILMEMBER FLOREEN:

16 We haven't had a conversation.

17
18 COUNCIL PRESIDENT ANDREWS:

19 Well, this is. This is the conversation. We have the sheet, and the sheet is clear about we
20 know what's on the reconciliation list. We know what else we need to find in savings in
21 order to fund a portion of that reconciliation list and the grants that we have just approved,
22 so we do have a good idea of what the gap is, and this has been identified as one
23 significant way to redirect resources in a way that the Council feels is of a higher priority at
24 this moment, and Linda McMillan listed a number of the very important items that are on
25 the reconciliation list, many of which affect very needy people in this county, and it is a
26 choice at this point between using these resources to meet those needs which if we don't
27 fill them will go unmet and there will be cuts, or maintaining the current level that is in the
28 HIF and using it for what was there, some of which is unprogrammed. So I support the
29 proposal. I think it is well-crafted. I think it's timely. It's not too early to do this. We are just
30 a few days away from a preliminary vote on the budget, so, well, that's the plan. And...

31
32 UNKNOWN SPEAKERS:

33 [indistinct]

34
35 COUNCIL PRESIDENT ANDREWS:

36 We control what we can control, and this is within our control. All right. I'll turn now to
37 Councilmember Ervin.



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1 COUNCILMEMBER ERVIN:

2 I think this has been a very painful process for all of us so far, and when we start talking
3 about affordable housing and safety net issues for people who are in need and for the
4 many people in our community who are poor and looking to government as the only
5 source of assistance that they have, and I'm looking at the operating budget tracking
6 documents that we have here, and my heart breaks because yesterday we heard, or the
7 day before--I'm losing track of days--about the numbers of people on waiting lists for
8 treatment of HIV/AIDS and STDs that are waiting in line, and we're cutting those monies
9 for those people. We heard many troubling things about how we're not serving the needs
10 of the people who need us most, and I take it very personally, this issue of affordable
11 housing, as someone who's lived in housing provided to me at a time when I couldn't
12 afford it, that we're making some really tough calls here, and I think that--I just feel such a
13 lack of confidence in what's coming over to us from the County Executive. I cannot tell you
14 how upset I am by the fact that we just received this document telling us that this 6-million-
15 dollar list of items just showed up out of thin air. We're gonna have to make these choices.
16 They're not gonna be pleasant choices, but at the same time, I think people are relying on
17 us not only for their affordable housing needs but also to remain healthy, to be fed and
18 clothed and educated. We have a lot of youth who will not be served this summer. We
19 have a lot of people who are gonna be hurting, and so I think that this is a decision we're
20 gonna have to make, and I'm going to support it, and unfortunately, this is going to be
21 politicized. I know that. But nobody said this was gonna be an easy job, so I am where I
22 am, and I'm going to support this motion.

23
24 COUNCIL PRESIDENT ANDREWS:

25 OK. Thank you, Councilmember Ervin. Councilmember Trachtenberg.

26
27 COUNCILMEMBER TRACHTENBERG:

28 Thank you, President Andrews. A question of both Mr. Farber and Ms. McMillan. As was
29 indicated by Councilmember Floreen, there had been a discussion within the
30 Management and Fiscal Policy Committee that I chair specifically about the application of
31 recordation tax revenue, and we have a bill that came out of committee. We are
32 recommending that the money that was in the Executive's budget appropriated for FY09
33 and 10 remain and that obviously we're not gonna wait until FY13 to revert back to the
34 existing law that was passed, I believe unanimously, by this body back in 2007. What is
35 the amount that was placed in the Executive's FY10 budget for that revenue? Do we
36 recall? I forget.

37
38 STEPHEN FARBER:

39 Yes. I believe that between Fiscal '09 and '10, the amount that's been diverted in order to
40 balance the Executive's budget is \$10 million.



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1 COUNCILMEMBER TRACHTENBERG:

2 That's what I sort of remembered, and I think that that's an important point to raise
3 because there was no discussion with this body. In fact, when the budget was first
4 proposed, I wasn't aware that that had been done. It really took my office a good 3, 4
5 weeks to realize what was going on, and that was right before the legislation came over to
6 us, and again I recognize that it was the consensus of this body to pass that legislation. It
7 was at my request that we pass that amendment, I remember, and again, you know,
8 there's a balance to be struck here, and I think there have been a series of excellent
9 points raised by my colleagues about why, perhaps, this has to be done, given what we
10 know we want to prioritize on the reconciliation list, but quite frankly recognizing the
11 emerging needs that continue to grow in the community, again, around the availability of
12 safety-net programming. When this was first proposed last week, I'll be frank. I was not
13 there yet. But after having given it some time, thinking back on the \$10 million placement
14 in the budget, around the recordation tax revenue, it just seemed to me that this is one of
15 those pragmatic, difficult choices that this body is gonna have to make, that we're required
16 to make, and one thing I would ask staff as well--I had a discussion with my staff before I
17 came up this afternoon, and we talked a little bit about the freeing up of the \$3.6 million in
18 the general fund that could be used, clearly, for safety-net programming for Health and
19 Human Service items, and I know Linda went through a list that easily approaches the
20 \$3.6 million mark. Is there some way to actually earmark the money in the general fund so
21 that it is applied to safety-net programming?

22
23 STEPHEN FARBER:

24 That will be a function of what you decide to fund from the reconciliation list.

25
26 COUNCILMEMBER TRACHTENBERG:

27 OK.

28
29 STEPHEN FARBER:

30 And I think, as Linda very clearly pointed out, there are many vital human health and
31 human services that could be funded from the reconciliation list if that is your decision.

32
33 COUNCILMEMBER TRACHTENBERG:

34 Well, I--obviously we will make that decision collectively, but the reason I'm just raising it is
35 because I just want to highlight that in my opinion, and I don't think I'm alone in this, that
36 money would be spent for safety-net programming, and yes, it's a trade-off, but right now,
37 that is a priority that's been articulated by every single Councilmember up here on the
38 dais, so I certainly have comfort at this point in supporting the motion before us. I speak in
39 support of Roger's motion.



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1 COUNCIL PRESIDENT ANDREWS:

2 OK. Thank you, Councilmember Trachtenberg. Councilmember Floreen.

3
4 COUNCILMEMBER FLOREEN:

5 Well, I don't have the tracking sheet from Friday. Maybe it will come downstairs shortly.
6 But I talked to Mr. Orlin a little while ago about a resource of \$5 million, and here it comes.
7 Thank you. I talked to Mr. Orlin an hour ago, two hours ago, about resources that he'd
8 identified. What about LAPs????? I know that was one of the ideas that was on Mr.
9 Farber's list. Where is that, Mr. Farber?

10
11 STEPHEN FARBER:

12 Well, I think that we--I'm going to certainly propose that you consider additional
13 LAPs????? based on the experience that we had with the savings plans in FY08 and
14 FY09, but I think once again, our resources even with that are going to be very tight, and
15 there are going to be trade-offs regardless.

16
17 COUNCILMEMBER FLOREEN:

18 What are the other options under review? Where you say we have other options under
19 review if the Council wants to fund more reconciliation list items?

20
21 STEPHEN FARBER:

22 Yes, there are some CIP-related options under review having to do with current revenue,
23 as you suggested.

24
25 COUNCILMEMBER FLOREEN:

26 And that's--

27
28 STEPHEN FARBER:

29 Mr. Orlin and I have been talking about those.

30
31 COUNCILMEMBER FLOREEN:

32 We came up with 5 million.

33
34 STEPHEN FARBER:

35 Yes, that might be a little bit high, but--

36
37 COUNCILMEMBER FLOREEN:

38 Again, people have to agree, but I'm simply pointing out that there are ways to have this
39 conversation with some more pieces of information. I don't think we're there yet. I really
40 don't.

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1 STEPHEN FARBER:

2 The reconciliation list at this point, once you have added the Council grants, is above 8
3 million.

5 COUNCILMEMBER FLOREEN:

6 Mm-hmm.

8 STEPHEN FARBER:

9 So, you know, again, we had a reconciliation list in the range of 6 million and 6.4, I
10 believe. You added 1.8 million in Council grants today, and if you are going to be able to
11 fund these and other safety-net issues that are included on the reconciliation list now, you
12 are going to have to free up some resources.

14 COUNCILMEMBER FLOREEN:

15 Well, it used to be that we didn't fund everything on the reconciliation list. Is that the
16 expectation?

18 COUNCIL PRESIDENT ANDREWS:

19 I'm sure we won't fund everything this year either, but I will say--

21 COUNCILMEMBER FLOREEN:

22 So why don't we resolve that?

24 COUNCIL PRESIDENT ANDREWS:

25 A larger percent of the reconciliation list consists of items that are...

27 COUNCILMEMBER FLOREEN:

28 Sure. No question.

30 COUNCIL PRESIDENT ANDREWS:

31 viewed as very high priority.

33 COUNCILMEMBER FLOREEN:

34 But we're not at that point yet. I really think we haven't tried hard enough.

36 COUNCIL PRESIDENT ANDREWS:

37 OK. Thank you. Councilmember Elrich.



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1 COUNCILMEMBER ELRICH:

2 I wouldn't characterize it as not trying hard enough, but I do agree that I would prefer to
3 wait until all the pieces are put on the table, and if this is a decision we have to make in
4 weighing all the other options, then that may be a decision we have to make. I was also
5 intrigued by the discussion of LAPs????? and the mention of other methods because this
6 kind of reminds me a little bit of last year when, you know, when all was lost, suddenly
7 something materialized that closed the gap that was even bigger than this, and it hadn't
8 been discussed or put on the table for months and months and months. And I understand
9 some of what's going on, and I also understand we don't know what the state will do with
10 the maintenance of effort, and we should know on the 15th, I guess, but when all that
11 smoke clears, then I think we ought to put this on the table and decide how this fits with
12 some of the other priorities we're dealing with, and if this needs to go because we think
13 that the health and other concerns are of greater priority, then maybe that's what needs to
14 go. But if, as you suggest, there are some other resources, for example, LAPs????? and
15 such, maybe we don't have to reduce this the full 3.6 million. Maybe when we're done, we
16 have to reduce it 1.8 million, and I guess that's the decision I would like to reserve to the
17 end of this process. The one thing I think that gets missed in this--two things. One is that
18 the housing we're largely talking about trying to create here is permanent rather than one-
19 year programs, and despite the fact that owned housing may be cheaper than it's been in
20 the county for a long time, that's not true of the rental market, and for the kind of people
21 who live in rental housing, the opportunity to buy apartment units and maintain affordable
22 rental housing--we may get unique opportunities to buy property where the value of what's
23 for sale has gone down but the rents the tenants themselves are experiencing may not.
24 So I think there is a value, a strong value, in trying to acquire as much property as we can
25 acquire. But I'd be happy to have this discussion and weigh it in the context of everything
26 else we're gonna do.

27
28 COUNCIL PRESIDENT ANDREWS:

29 Thank you, Councilmember Elrich. Council Vice President Berliner.

30
31 COUNCIL VICE PRESIDENT BERLINER:

32 I appreciate the comments of my colleagues. I'd like to amend my motion in the following
33 way. I'd like to suggest that we take up to 3.6 million, and if it turns out that, my goodness,
34 we find less painful ways to make up the difference, so be it. But this way, it will put the
35 Council on record that if we need these dollars up to 3.6 million, we would so take them,
36 and if we don't, if there comes less painful ways, by gosh, all of us want less painful ways.
37 Do I have a second for that amended?

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1 COUNCIL PRESIDENT ANDREWS:

2 OK. That is amended in that form. All right. We're going to vote now. All those in favor of
3 the motion just enunciated, please raise your hand, and that is Councilmember Elrich,
4 Councilmember Trachtenberg, myself, Council Vice President Berliner, Councilmember
5 Knapp, Councilmember Ervin, Councilmember Leventhal. Opposed, Councilmember
6 Floreen. So it carries 7-1. Thank you all, and we are done for the afternoon.
7

8 COUNCILMEMBER KNAPP:

9 Mr. President, I just have one quick question on housing, if I could. Since we're all
10 competing to see how good everyone is at affordable housing, I would just like to check to
11 see--are we expecting to see the accessory use apartment legislation that was a
12 cornerstone of the Affordable Housing Task Force recommendations that came out a year
13 and a half ago anytime in our future?
14

15 RICHARD NELSON:

16 The accessory apartment legislation has been given to Jeff Zyontz and that review
17 committee that he has, and I believe they've scheduled or are scheduling a meeting to
18 review it.
19

20 COUNCILMEMBER KNAPP:

21 OK, so we can look forward to taking that up this summer.
22

23 RICHARD NELSON:

24 Yes.
25

26 COUNCILMEMBER KNAPP:

27 Thank you.
28

29 COUNCIL PRESIDENT ANDREWS:

30 All right, and tonight, we have our public hearing on the Germantown master plan at 7:30.
31 See you then.
32